S. HRG. 100-1069

HATE CRIME STATISTICS ACT OF 1988

HEARING

BEFORE THE

SUBCOMMITTEE ON THE CONSTITUTION

OF THE

COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE

ONE HUNDREDTH CONGRESS

SECOND SESSION

ON

S. 702

A BILL TO PROVIDE FOR THE COLLECTION OF DATA ABOUT CRIMES MOTIVATED BY RACIAL, RELIGIOUS, OR ETHNIC HATRED

S. 797

A BILL TO REQUIRE THE ATTORNEY GENERAL TO COLLECT DATA AND REPORT ANNUALLY ABOUT HATE CRIMES

S. 2000

A BILL TO PROVIDE FOR THE ACQUISITION AND PUBLICATION OF DATA ABOUT CRIMES THAT MANIFEST PREJUDICE BASED ON RACE, RELIGION, AFFECTIONAL OR SEXUAL ORIENTATION, OR ETHNICITY

JUNE 21, 1988

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HATE CRIME STATISTICS ACT OF 1988

TUESDAY, JUNE 21, 1988

U.S. SENATE,
SUBCOMMITTEE ON THE CONSTITUTION,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The subcommittee met, pursuant to notice, at 10:10 a.m., in room 628, Dirksen Senate Office Building, Hon. Paul Simon, (chairman of the subcommittee) presiding.

Also present: Senators Metzenbaum and Specter.

Staff present: Deborah Leavy, chief counsel; Susan Kaplan, counsel; Steve Hilton, chief counsel, minority; Margaret Morton, counsel, minority; Linda Greene, counsel; Cheryl Matcho, chief clerk.

OPENING STATEMENT OF SENATOR PAUL SIMON

Senator SIMON. The subcommittee will come to order.

We have a hearing on the question of the reporting of hate crimes.

If we're going to deal with the problem, you have to know the extent of the problem. That seems very simple and obvious. And, yet, that simple, obvious thing has not been acted upon.

We know we have some problems in our society. In many ways, we have made great progress in my lifetime, but we also know that we have some distance to go.

Where there is sickness and poison in our society, let's find out about it. Let's find out the extent of it so that we can deal with it and deal with it effectively.

That's the aim of the legislation, and I am very pleased to have a series of witnesses here.

We ask the witnesses to limit your remarks to 5 minutes. We'll enter your formal statements in the record so we can move in the direction of questions primarily.

[S. 702, S. 797, and S. 2000, hate crime statistics bills, follow:]

II

100TH CONGRESS
1ST SESSION

S. 702

To provide for the collection of data about crimes motivated by racial, religious, or ethnic hatred.

IN THE SENATE OF THE UNITED STATES

MARCH 10, 1987

Mr. SIMON introduced the following bill; which was read twice and referred to the Committee on the Judiciary

---

A BILL

To provide for the collection of data about crimes motivated by racial, religious, or ethnic hatred.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Hate Crime Statistics Act".

SEC. 2. ACQUISITION OF DATA AND REPORTS.

Under the authority of section 534 of title 28, United States Code, the Attorney General shall acquire data, for the calendar year 1986 and each of the succeeding 4 calendar years, about crimes which manifest racial, ethnic, or religious

prejudice, including where appropriate the crimes of homicide, assault, robbery, burglary, theft, arson, vandalism, trespass, and threat. The Attorney General shall publish annually a summary of such data.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated, for fiscal year 1987 and each of the succeeding 4 fiscal years, such sums as may be necessary to carry out this Act.

II

100TH CONGRESS
1ST SESSION

S. 797

To require the Attorney General to collect data and report annually about hate crimes.

IN THE SENATE OF THE UNITED STATES

MARCH 19 (legislative day, MARCH 17), 1987

Mr. METZENBAUM (for himself, Mr. LAUTENBERG, Mr. INOUYE, Mr. SPECTER, Mr. WIRTH, Mr. WEICKER, Mr. SANFORD, and Ms. MIKULSKI) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

---

A BILL

To require the Attorney General to collect data and report annually about hate crimes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ACQUISITION OF DATA AND REPORTS

Under the authority of section 534 of title 28, United States Code, the Attorney General shall develop a workable reporting system for the acquisition of data, for the calendar year 1988 and each of the succeeding 4 calendar years, about crimes which manifest racial, ethnic, or religious prejudice, including the crimes of homicide, assault, robbery, burglary,

theft, arson, vandalism, trespass, and threat. The Attorney General shall annually publish a summary of such data.

SEC. 2. AUTHORIZATION OF APPROPRIATIONS

There is authorized to be appropriated for fiscal year 1988 and each of the succeeding four fiscal years, such sums as may be necessary to carry out this Act.

II

100TH CONGRESS
2D SESSION

S. 2000

To provide for the acquisition and publication of data about crimes that manifest prejudice based on race, religion, affectional or sexual orientation, or ethnicity.

IN THE SENATE OF THE UNITED STATES

JANUARY 25, 1988

Mr. CRANSTON (for himself, Mr. KERRY, Mr. SIMON, and Mr. INOUYE) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

---

A BILL

To provide for the acquisition and publication of data about crimes that manifest prejudice based on race, religion, affectional or sexual orientation, or ethnicity.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Hate Crime Statistics Act".

SEC. 2. ACQUISITION AND PUBLICATION OF DATA.

(a) IN GENERAL.—Under the authority of section 534 of title 28, United States Code, the Attorney General shall acquire, for calendar year 1988 through calendar year 1992,

data on the incidence of criminal acts that manifest prejudice based on race, religion, affectional or sexual orientation, or ethnicity. The crimes with respect to which such data shall be acquired are as follows: homicide, assault, robbery, burglary, theft, arson, vandalism, trespass, threat, and such other crimes as the Attorney General considers appropriate.

(b) LIMITATION ON USE AND CONTENT OF DATA.—Data acquired under this Act shall be used only for research or statistical purposes and may not contain any information that may reveal the identity of an individual victim of a crime.

(c) ANNUAL SUMMARY.—The Attorney General shall publish an annual summary of the data acquired under this Act.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Act for fiscal year 1988 through fiscal year 1993.

Senator SIMON. We are pleased to have, as our first two witnesses, two distinguished Members of the House, with whom I once had the opportunity to serve, Congressman John Conyers and Congresswoman Barbara Kennelly. If you will both join us here. And I don't know if there is a preference as to which one of you would testify first.

Mr. CONYERS. I defer to Mrs. Kennelly.

Senator SIMON. Well, we are very happy to have Representative Kennelly here who has been a very forthright person on not only this issue, but many issues. Very pleased to have you here.

A PANEL CONSISTING OF CONGRESSWOMAN BARBARA KENNELLY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CONNECTICUT, AND CONGRESSMAN JOHN CONYERS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN

STATEMENT OF CONGRESSWOMAN BARBARA KENNELLY

Mrs. KENNELLY. Thank you, Senator Simon. And, of course, I could always defer to Mr. Conyers as the chairman, but I will thank him for letting me go first.

Thank you, Senator Simon, for holding this hearing today and allowing me to testify.

I know that this subcommittee has many types of legislation pending in this area. I also know, Senator, that you have your own bill, which is excellent. I only hope that you will be able to complete work and bring a bill to the floor prior to the end of this session.

I introduced a bill similar to the bill we're talking about today back in 1985, as a result of events in my home State, Connecticut.

Recently, we have heard other things happening in various communities. Of course, some of these events, Senator, as you know, get huge press coverage, such as the Howard Beach situation.

But, unfortunately, you and I know that incidents occur in each and every State in this Union. People are shocked by them, but then tend to forget and go on with their every day lives, while victims are left unprotected.

Just last week, the Washington Post reported that violent crimes directed at homosexuals increased 42 percent over 1986, but noted that it was unable to determine to what extent the rise reflects an increase of victimization or better reporting or both.

Each year many acts of violence and intimidation are motivated by race, religion, ethnicity, or sexual orientation. Unfortunately, as this report says, we just don't know the extent of these acts, because no comprehensive statistics are maintained.

But as a society that prides itself on diversity and tolerance, we need to find out.

Hate crimes are of a particularly dangerous nature, because they may be aimed at a single victim, but their effects can permeate a whole community.

Solid information on when, where and how often such crimes occur is a first step towards preventing them.

Hate crimes motivated by political, religious, and social intolerance need to be distinguished from crimes motivated by other factors.

It is so important to document that a cross burning is much more than an arson and a swastika painted on a synagogue is more than vandalism.

An understanding of the incidents and nature of bias motivated crime is essential for effective law enforcement efforts.

My State of Connecticut historically has collected data on hate crimes. Several years after enactment of Connecticut's hate crimes statistics statute, the Commission on Human Rights used the data collected to convince the State legislature to enact a law which requires a stiffer penalty for any violent crime committed while wearing a hood or a mask.

That may or may not be appropriate at the Federal level, but I think we have the ability and the responsibility to gather the facts and share them with Federal and State policymakers.

Unfortunately, incidents of hate crimes are too common occurrences in our communities. We cannot let that be accepted as every day activities.

And its form is so simple, but what it could do is so important. Thank you, Senator Simon.

[The prepared statement of Mrs. Barbara Kennelly follows:]

Testimony

The Honorable Barbara B. Kennelly

before

The Senate Judiciary Subcommittee on the Constitution

Tuesday, June 21, 1988

Thank you, Senator Simon, members of the Subcommittee, I appreciate your invitation to testify today and commend you for holding this hearing. I know that the Subcommittee has several hate crime statistics bills before it and that you, Senator Simon, have your own legislation in this area. I hope that you will be able to complete your work and bring a bill to the floor prior to the end of the session.

I introduced a bill, similar to that which recently passed the House, back in 1985 as a result of events in Connecticut, which had religious overtones. Unfortunately, I find myself before you today with a tragic example from my own district which again points out the need for this legislation.

Recently my constituents in Connecticut were stunned by reports that two young men allegedly bludgeoned a homosexual man to death. However, as the shock lessens, and other incidents of violence against homosexuals in the area come to light, we realize that this is not an isolated incident.

Just last week, The Washington Post reported that violent crimes directed at homosexuals increased 42 percent over 1986, but noted that it was unable to determine to what extent the rise reflects an increase in victimization, better reporting, or both.

H.R. 3193, the Hate Crimes Statistics Act recently passed by the House, and the legislation you have pending before this Subcommittee, would rectify this. This legislation would require the Justice Department to collect data on the incidence of crimes motivated by prejudice based on race, religion, ethnicity or sexual orientation.

Each year, many acts of violence and intimidation are motivated by race, religion, ethnicity or sexual orientation. Unfortunately, we just don't know the extent of these acts because no comprehensive statistics are maintained. But as a society that prides itself on its diversity and tolerance, we need to find out.

Hate crimes are of a particularly dangerous nature, because while they may be aimed at a single victim, their effects can permeate a whole community.

Solid information on when, where, and how often such crimes occur is a first step toward preventing them.

Hate crimes, motivated by political, religious and social intolerance, need to be distinguished from crimes motivated by other factors. It is important to document that cross burnings are more than "arson", that swastikas painted on synagogues are more than "vandalism" and that tragic incidents like that in Hartford are more than simple robbery-homicides.

An understanding of the incidence and nature of bias-motivated crime is essential for effective law enforcement efforts and policy formulation.

My state of Connecticut historically has collected data on hate crimes. Several years after enactment of Connecticut's Hate Crimes Statistics Statute, the Commission on Human Rights used the data collected to convince the State Legislature to enact a law which requires stiffer penalties for any violent crime committed while wearing a hood or mask. That may or may not be appropriate at the federal level, but I think we have the ability and the responsibility to gather the facts and share them with federal and state policymakers.

Legislation of this nature is supported by a broad coalition of law enforcement, religious and public interest organizations. I would urge the Subcommittee to do the same. Thank you.

Senator SIMON. We thank you. Representative John Conyers, a pioneer in many fields. Happy to have you over here.

STATEMENT OF CONGRESSMAN JOHN CONYERS

Mr. CONYERS. Good morning, Mr. Chairman. I'm very delighted that this legislation is before your subcommittee, and I'm very pleased to join my colleague, Representative Barbara Kennelly, who has been very, very sensitive to this problem.

As you know, I've spent my career in the Congress working to improve civil rights laws in our country.

Today, I come to you with not another law, but a simple requirement that might have been taken care of procedurally without us ever really having to turn this into legislation.

For years, we have been unable to document the hate crimes that go on in our country. We've not been able to put our finger on which crimes are going on in which areas and what is being done to combat them.

The uniform crime reports controlled by the FBI, would have been a very good place to add this type of offense data to that which they already collect from the 16,000 or more State and local law enforcement agencies that help us keep track of all the criminal violations that occur.

But we've been resisted for so long by the Department of Justice, that we were put into this difficult position, it seems to me, of creating a law that would mandate something as obvious as this to happen.

This measure in large part passed the House of Representatives in the 99th Congress. We've now added the dimension of "sexual orientation" to it. We've defined this term to mean homosexuality and heterosexuality. And we've also acknowledged that this would not create a new cause of action for discrimination based on homosexuality.

Hate crimes are increasing from what we can tell in our communities. Black Americans were originally thought to be the persons that would—the group that would most benefit from this legislation.

Then we realized that Jews were being targeted when the desecration of synagogues and other indications of anti-Jewish behavior began to manifest themselves. Then the Hispanics became targets, then Asian Americans, Africans; and, of course, gays and lesbians.

And, so, what we've decided to do is to create a—really a suggestion, because we deliberately left out many of the details—that the Department of Justice began to keep this additional compilation of data and publish it.

What we're going to do with it remains unspoken. How we are going to treat it is not dealt with. All we're saying is we've now reached the point that we need to know this information.

And in Baltimore they've done, in their county police department—they've given us a key to what it is that creates a hate crime. How do you know one when it happens.

And I just wanted to close by reviewing with you the criteria they have established: whether there is a symbol displayed, was there a burning cross, was there a hood or mask worn or were the

KKK initials displayed. Was there a swastika involved. Were there slogans or epithets of racial hatred uttered.

Did the victim previously receive hate mail, whether there had been a series of racially motivated incidents before. And did this happen in the presence of unresolved social conflicts in the community.

Particularly important in that regard is housing integration which frequently leads to these kinds of hate crime acts being committed.

So, I'm hopeful that one of the things that will happen in the 100th Congress is that the Senate will join with us, as I'm confident it will, and we will have legislation that will once and for all require the Department of Justice to collect these much much needed statistics. Thank you very much.

[The prepared statement of Congressman John Conyers follows:]

REP. JOHN CONYERS JR.
BEFORE THE SENATE SUBCOMMITTEE ON THE CONSTITUTION
STATEMENT ON
HATE CRIMES STATISTICS LEGISLATION

JUNE 21, 1988

Mr. Chairman, members of the Subcommittee, I am pleased to have the opportunity to appear before you today to testify in support of hate crime statistics legislation. As you know, I am the author of H.R. 3193, the Hate Crime Statistics Act, which overwhelming passed the House of Representatives on May 18, 1988, by a vote of 383 to 29. While I understand that my bill has been held at the desk and is not the subject of this hearing today, it is virtually identical to one of the bills before you, S. 2000, introduced by Senator Alan Cranston.

S. 2000, and H.R. 3193, are different from other hate crime statistics bills in that they include language which would require the collection and publication of data on anti-gay and lesbian offenses, in addition to data on those motivated by prejudice based on race, religion, and ethnic origin. I believe that such a provision is an essential ingredient that must be included in whatever bill is enacted into law. The record of the oversight hearing that my subcommittee held on anti-gay violence during the 99th Congress clearly supports its inclusion. The people who hate do not discriminate in selecting their targets. Gays and lesbians are being victimized daily just because of who they are.

H.R. 3193, the Hate Crime Statistics Act, is a modest measure. It simply requires the Department of Justice to collect

and publish statistics on hate crimes for a period of five years. The Department, through the Federal Bureau of Investigation, already collects data on a wide variety of criminal offenses in order to produce the Uniform Crime Report. The data in the report, however, does not presently indicate whether or not an offense is a hate crime.

While neither H.R. 3193, nor any or the other bills specifies the method by which the data is to be collected by the Justice Department, it is my view that utilizing the Uniform Crime Reporting system makes the most sense as the hundreds of state and local police agencies already transmitting crime data to the FBI are certainly capable of indicating whether an offense was motivated by prejudice.

During the past few years, there have been increasing reports of physical and psychological attacks on persons who were targeted simply because of their race, religion, sexual orientation, or ethnic origin. These crimes appear to be the spontaneous acts of non-affiliated individuals, as well as actions planned and carried out by organized groups. They are intended to intimidate not just their victims, but to spread fear throughout entire communities. The fact that these offenses still continue to happen at all in America is an indication that the democratic values that we take great pride in, and which distinguish our society among the community of nations, are not yet shared by all of our citizens.

Last month, we learned about a threat on the life of

Reverend Jesse Jackson which was apparently made by persons connected with an extremist group known as "The Order." Reverend Jackson was reportedly targeted by them because he, a Black man, was getting too close to becoming president. The Secret Service has made two arrests in the case, but there is little doubt that such threats against Reverend Jackson will continue, or that other Blacks and minorities will be singled out for acts of violence because they aspire to exercise their constitutional rights.

At present, only a handful states (Maryland, Pennsylvania, Illinois, Connecticut, Oklahoma, and Minnesota) and a few local governments monitor the incidence of hate crimes. As the result, there is still much about the nature and scope of this problem that we do not know such as: whether some parts of the country experiencing more hate crimes than others, or are there patterns evident in the background of the perpetrators and victims? I believe that such information would be of great value to law enforcement personal and legislators concerned about the eradication of this problem. With the enactment of hate crimes statistics legislation, the answers to these questions can easily be obtained.

Nationwide hate crimes data can be very useful to law enforcement agencies seeking to combat these offenses. It can provide the basis for the creation of specialized investigating units, such as those now operating in New York City, Boston, and San Francisco. It can also lead to increased intra-agency

sharing of intelligence information on the criminal activities hate groups.

Public policy makers will find the data useful as it can provide them the basis for the development of educational programs designed to promote the understanding and tolerance of different races, cultures, and beliefs. The data can also provide the basis for enactment of new or enhanced criminal sanctions.

Hate crimes are extraordinary in nature and require a special governmental response. By devoting Federal resources to the collection of information about this problem, the Congress will demonstrate that it is concerned about the threat that racism and bigotry pose to the peace and harmony of our communities, and is willing to take effective steps to address it.

Thank you.

Senator SIMON. I thank you both very much. You mention in your statement, Congressman Conyers, that hate crimes are increasing. You may be right. You may be wrong.

It is a perception. We have a series of anecdotes of different things, of an Asian American being killed in Detroit and so on. But we don't have those statistics in a firm way.

The Baltimore County Police will be testifying a little later this morning about their data collection, but if suddenly there's a rise in hate crimes statistics, we can deal with it as public officials.

Mr. CONYERS. Well, could I argue that an increase is reflected in the information that is available to us, as limited as it is. And I, of course, concur with your inference that it's incomplete.

There are a few states that do collect it. There are human relations commissions, civil rights organizations, groups doing great work, but they're very, very limited.

But from that picture I can come, I think, confidently to the conclusion and state before this committee that I believe that they're rising and not standing still or even becoming fewer in number.

Senator SIMON. I think that is the probability. Let me ask this question of both of you. The Department of Justice is going to testify a little later that it involves too much work to add this to the uniform crime reports. How do you respond?

Mr. CONYERS. Well, of course, I suppose it's a matter of perception, Mr. Chairman. If anyone in 1988 thinks that the resolution of racial and ethnic conflicts is—has moved so far along that this would be a difficult, a costly or time consuming burden that we need not attend to—it almost shows a misperception of where we are.

To me there's nothing more important. The fact that we need to do this a couple hundred years after our country has been formed, makes it more important and more imperative than ever that we get on with the business of not just identifying, but to moving on to finding ways to end the racial violence.

I don't think any of the members that joined us on this legislation would feel happy to know that we have—we are simply counting racially motivated statistics and that's the end of it.

I think behind every member that joined us is the feeling that this will give us a much needed tool to end or certainly immediately reduce the amount of racially motivated violence that's going on.

So, I think that that kind of complaint should be quickly swept aside, as it was in my own subcommittee.

Senator SIMON. Mrs. Kennelly.

Mrs. KENNELLY. Senator Simon, when we were working on this bill in 1985, we did look at numerous forms that the police used when they do enter crime and do the investigation and many many items of information are there and are checked off.

I think it is a matter of checking a box. What we're trying to do is see if there is a stream of connections in a community.

What happens when a crime is committed—if there had been a series of crimes, say, against people for their sexual choice, that could have been documented very easily with the check in the box, just flipping through some cards.

To show that it probably wouldn't cost that much work, CBO has estimated that the implementation of the entire bill costs between

$1 to $10 million, and we don't get figures like that around here very often.

Of course, that's a lot of money, but compared to what we often deal with, it isn't an awful lot.

Our police do collect incredible amounts of statistics to help with solving crimes. And this would be in addition. And since we both feel there is an increase in these crimes, it's a needed addition.

Senator SIMON. I'm very pleased to have Senator Metzenbaum join us. Do you have any questions for our witnesses?

Senator METZENBAUM. Congressman Conyers and Congresswoman Kennelly, I'm happy to see you. I would like to make an opening statement.

Senator SIMON. Certainly.

Senator METZENBAUM. Mr. Conyers, the Justice Department opposed your bill, H.R. 3193 on several grounds. One of the major arguments of the department was that reliable data on crimes motivated by prejudice cannot be produced.

I assume that your committee and ultimately the House rejected that argument. I ask you can reliable data on crimes motivated by hate and prejudice be produced?

Mr. CONYERS. Yes, I think they can, Senator Metzenbaum. First of all, some are so painfully obvious that we don't have argument about whether they can be produced.

People's particular utterances, the inscribing of swastikas, are all very clear. But I was impressed by the Baltimore County Police Department that put forward a list of such indicia that you could following along with: burning crosses, swastika, KKK, whether there were hoods or masks involved in the incident, what was said, whether racially motivated slogans or epithets were uttered, whether the victim had received previous hate mail, whether they were in an area where there was a rise of incidents of a racially motivated kind.

All of these are ways that you can tell. What we suggested, Senator, to the Department of Justice is that when in doubt, we would prefer that it not be counted.

But, you know, the law enforcement people have to make decisions about motivation and intent in almost every kind of incident. This calls on the same kind of skill, the same kind of judgment.

Senator METZENBAUM. Thank you.

Senator SIMON. We thank you both very, very much for your testimony here, but most of all for your leadership in the area of hate crimes.

Mr. CONYERS. Well, it's a pleasure to be before both of you who happen to be two of the Senators that many of us in the Congress hold in the highest regard, particularly on the Judiciary Committee.

Senator SIMON. Senator Metzenbaum, I believe you have an opening statement.

OPENING STATEMENT OF SENATOR HOWARD METZENBAUM

Senator METZENBAUM. Mr. Chairman, I am pleased that we're holding this hearing on the collection of hate crime statistics.

Last year when I introduced my bill on hate crime statistics, S. 797, I was convinced that the rising incidents of hate crimes required increased Federal involvement.

It was my judgment, and I was not alone, that we needed to set up a Federal system for the collection of hate crime data so that we can begin to understand the nature and scope of this problem.

Last year when I introduced my bill, I noted that violence in places such as Howard Beach, NY, and Forsythe, GA, have refocused our attention on hate crimes.

I noted that the State of Maryland, in our own backyard, has over 400 incidents of hate crimes per year. I also pointed out that the community relations service of the Justice Department reported that incidents of race and ethnic hate crimes had tripled between 1982 and 1986.

These and other facts led me to introduce my bill. Since then the case requiring data on hate crimes has grown stronger.

The Anti-Defamation League of the B'Nai B'rith recently found that more hate crimes have been committed in the last 3 years than in the last 20 years. The league found about 3,000 incidents between 1980 and 1986.

Other studies show statistics equally distressing. It seems that the Klan and other groups are encouraging intolerance, especially among the young.

We cannot afford to ignore these trends. The least we can do is pass a bill requiring the Justice Department to gather information nationwide about hate crimes.

This information will aid Federal and state authorities in developing programs to combat hate crimes. I, along with Mr. Glickman of the House, pushed the passage of legislation to provide criminal sanctions for violence at interfering with the free exercise of religion.

That legislation has been passed by both Houses and awaits the President's signature.

The next order of business is the passage of legislation to insure that we have the information we need to fight crimes based on prejudice and hatred.

We need to know how these sources should be mobilized. We need to know whether we need to give more assistance and local law enforcement to address these crimes. We need to know what kind of educational and community programs are appropriate.

Our government has an obligation to protect all citizens from violence and crime. If the evidence shows that certain groups are targeted for criminal acts, we must do everything possible to protect these victims and prosecute these crimes.

I am aware that the Justice Department opposes all current legislative proposals. I find that position particularly troubling and disappointing.

We are all injured when we allowed prejudice to express itself through crime and violence. Whether the crime is defacing the synagogue in Silver Spring, the murder of a black woman in Cleveland, OH, because she moved to a white neighborhood, or the attack of a black man because he ventured into the white community of Howard Beach, these are all crimes which are outrageous.

And there are so many others that time does not permit the enumeration of all of them, but I would guess that we'll hear about some of them today from the witnesses.

These are all crimes which make us less secure. These are all crimes which should and must motivate us to take the modest step of reporting out and passing a hate crime statistics bill this year. Thank you, Mr. Chairman.

[The prepared statement of Senator Metzenbaum follows:]

U.S. Senator Howard M.
METZENBAUM
of Ohio

Committees:
Judiciary
Labor and Human Resources
Energy and Natural Resources
Select Committee on Intelligence

Chairmanships:
Subcommittee on Antitrust
Subcommittee on Labor
Subcommittee on Energy
Regulation and Conservation

OPENING STATEMENT-

HEARING ON HATE CRIME STATISTICS

I AM PLEASED THAT WE ARE HOLDING THIS HEARING ON THE COLLECTION OF HATE CRIME STATISTICS.

LAST YEAR WHEN I INTRODUCED MY BILL ON HATE CRIME STATISTICS, S. 797, I WAS CONVINCED THAT THE RISING INCIDENCE OF HATE CRIMES REQUIRED INCREASED FEDERAL INVOLVEMENT. IT WAS MY JUDGMENT, AND I WAS NOT ALONE, THAT WE NEEDED TO SET UP A FEDERAL SYSTEM FOR THE COLLECTION OF HATE CRIME DATA SO THAT WE CAN BEGIN TO UNDERSTAND THE NATURE AND SCOPE OF THIS PROBLEM.

LAST YEAR, WHEN I INTRODUCED MY BILL, I NOTED THAT VIOLENCE IN PLACES SUCH AS HOWARD BEACH, NEW YORK AND FORSYTH, GEORGIA HAVE REFOCUSED OUR ATTENTION ON HATE CRIMES. I NOTED THAT THE STATE OF MARYLAND, IN OUR OWN BACKYARD, HAS OVER 400 INCIDENTS OF HATE CRIMES PER YEAR. I ALSO POINTED OUT THAT THE COMMUNITY RELATIONS SERVICE OF THE JUSTICE DEPARTMENT REPORTED THAT INCIDENTS OF RACE AND ETHNIC HATE CRIMES HAD TRIPLED BETWEEN 1980 AND 1986. THESE AND OTHER FACTS LED ME TO INTRODUCE MY BILL.

SINCE I INTRODUCED MY BILL, THE CASE FOR ACQUIRING DATA ON HATE CRIMES HAS GROWN STRONGER. THE ANTI-DEFAMATION LEAGUE OF B'NAI B'RITH RECENTLY FOUND THAT MORE HATE CRIMES HAVE BEEN COMMITTED DURING THE LAST 3 YEARS THAN IN THE PAST 20 YEARS. THE LEAGUE FOUND ABOUT 3000 INCIDENTS BETWEEN 1980 AND 1986. OTHER STUDIES SHOW STATISTICS EQUALLY

DISTRESSING. IT SEEMS THAT THE KLAN AND OTHER GROUPS ARE ENCOURAGING INTOLERANCE, ESPECIALLY AMONG THE YOUNG. WE CANNOT AFFORD TO IGNORE THESE TRENDS. THE LEAST WE CAN DO IS TO PASS A BILL REQUIRING THE JUSTICE DEPARTMENT TO GATHER INFORMATION NATIONWIDE ABOUT HATE CRIMES. THIS INFORMATION WILL AID FEDERAL AND STATE AUTHORITIES IN DEVELOPING PROGRAMS TO COMBAT HATE CRIMES.

I ALONG WITH MR. GLICKMAN OF THE HOUSE, PUSHED THE PASSAGE OF LEGISLATION TO PROVIDE CRIMINAL SANCTIONS FOR VIOLENCE AIMED AT INTERFERING WITH THE FREE EXERCISE OF RELIGION. THAT LEGISLATION HAS BEEN PASSED BY BOTH HOUSES AND AWAITS THE PRESIDENT'S SIGNATURE. THE NEXT ORDER OF BUSINESS IS THE PASSAGE OF THIS BILL TO INSURE THAT WE HAVE THE INFORMATION WE NEED TO FIGHT CRIMES BASED ON PREJUDICE AND HATRED. WE NEED TO KNOW HOW RESOURCES SHOULD BE MOBILIZED. WE NEED TO KNOW WHETHER WE NEED TO GIVE MORE ASSISTANCE TO STATE AND LOCAL LAW ENFORCEMENT TO ADDRESS THESE CRIMES. WE NEED TO KNOW WHAT KIND OF EDUCATIONAL AND COMMUNITY PROGRAMS ARE APPROPRIATE.

OUR GOVERNMENT HAS AN OBLIGATION TO PROTECT ALL CITIZENS FROM VIOLENCE AND CRIME. IF THE EVIDENCE SHOWS THAT CERTAIN GROUPS ARE TARGETTED FOR CRIMINAL ACTS, WE MUST DO EVERYTHING POSSIBLE TO PROTECT THESE VICTIMS AND PROSECUTE THESE CRIMES.

I'M AWARE THAT THE JUSTICE DEPARTMENT OPPOSES THIS BILL. I FIND THIS POSITION TROUBLING AND DISAPPOINTING. WE ARE ALL INJURED WHEN WE ALLOW PREJUDICE TO EXPRESS ITSELF THROUGH CRIME AND VIOLENCE.

WHETHER THE CRIME, THE DEFACING OF THE SHAARE TEFILA SYNAGOGUE IN SILVER SPRING, THE MURDER OF A BLACK WOMEN IN CLEVELAND, OHIO BECAUSE SHE MOVED TO A WHITE NEIGHBORHOOD, OR THE ATTACK OF A BLACK MAN BECAUSE HE VENTURED INTO THE WHITE COMMUNITY OF HOWARD BEACH, THESE ARE ALL CRIMES WHICH SHOULD OUTRAGE US. THESE ARE ALL CRIMES WHICH MAKE US ALL LESS SECURE. THESE ARE ALL CRIMES WHICH SHOULD-- MUST--- MOTIVATE US TO TAKE THE MODEST STEP OF REPORTING OUT, AND PASSING, A HATE CRIME STATISTICS BILL THIS CONGRESS.

THANK YOU MR. CHAIRMAN.

Senator SIMON. Thank you, Senator Metzenbaum. Senator Specter, do you have an opening statement?

OPENING STATEMENT OF SENATOR ARLEN SPECTER

Senator SPECTER. Yes, thank you very much, Mr. Chairman. I am delighted to join you and Senator Metzenbaum in supporting legislation to move against the hate crimes against racial, religious, or ethnic groups.

I commend you, Mr. Chairman, on scheduling this important hearing today.

Criminal conduct is reprehensible in any form, but it is doubly reprehensible when it is directed against religious, racial, or ethnic groups.

In our society we caption criminal cases as "The Commonwealth versus Defendant," "Commonwealth of Pennsylvania versus the Defendant," or "The United States of America versus the Defendant." Because the crime is more than directed against the individual who is the victim. It is directed against all of society, the peace and tranquility of society.

And if you have an assault or if you have a burglary or if you have a larceny, those are serious offenses.

But when the criminal picks out somebody based on racial reasons or ethnic reasons or religious reasons, it is doubly destructive, because it isn't directed at random to steal money or commit a burglary, it is directed against someone who is black or against someone who is Jewish or it is directed against someone for an ethnic reason, and that is especially opprobrious.

So this kind of legislation, I think, has a very important purpose in our society.

Just a personal note, I recall as an 18-year-old student at the University of Oklahoma having gone to Norman, OK, from Russell, KS, where I went to high school and where there were no crimes against race, ethnicity, or religions.

There was only one Jewish family in my town of Russell, KS. Only one black family in Russell, KS. That issue wasn't paramount.

And I can recall going to the big university, the University of Oklahoma, and one day coming out in front of the Pi Lambda Phi house, the Jewish fraternity, to find an enormous swastika. It was quite a rude awakening for an 18-year-old from the Farm Belt.

And as I later moved to Pennsylvania, a big city like Philadelphia, saw more of the problem, saw racial problems, ethnic problems, religious problems and then serving as district attorney for the city of Philadelphia for some 8 years, I saw these kinds of atrocious crimes on a repetitive basis.

It is a very important national problem that we have to tackle and tackle hard so that I'm glad to be supportive of legislation that we're considering today and pleased that it is coming before our Constitutional Law Subcommittee. Thank you, Mr. Chairman.

Senator SIMON. Thank you, Senator Specter. We will now have a panel composed of a former colleague in the Senate, Jim Abourezk, Ms. Patricia Clark, Ms. Weiss, and Mr. Alan Schwartz.

PANEL CONSISTING OF FORMER SENATOR JAMES G. ABOUREZK, NATIONAL CHAIRMAN, AMERICAN ARAB ANTI-DISCRIMINATION COMMITTEE; PATRICIA CLARK, DIRECTOR OF KLANWATCH, SOUTHERN POVERTY LAW CENTER; JOAN C. WEISS, EXECUTIVE DIRECTOR, NATIONAL INSTITUTE AGAINST PREJUDICE AND VIOLENCE; AND, ALAN M. SCHWARTZ, DIRECTOR OF RESEARCH, ANTI-DEFAMATION LEAGUE OF THE B'NAI B'RITH

Senator SIMON. Let me call first on the former Senator from South Dakota, who is now the national chair of the American Arab Anti-Discrimination Committee, Senator Abourezk. A pleasure to have you here.

Let me just repeat what I said earlier, we would like all witnesses to confine themselves to 5 minutes. We'll enter your full statements in the record.

STATEMENT OF FORMER SENATOR JAMES ABOUREZK

Senator ABOUREZK. Did your seeing me sitting here first remind you of that? [Laughter.]

Senator SIMON. Knowing what a great filibusterer you were, I figured that if we don't tell you, you may be here for 3 or 4 days. [Laughter.]

Senator ABOUREZK. First of all, I'd like to thank the committee and the chairman and the people who have introduced and cosponsored this legislation, which I think is needed and I support its passage.

I want to speak briefly about the objectives of the committee which I founded and of which I'm currently Chairman, the American Arab Anti-Discrimination Committee.

We're a service organization to people of Arab descent in the United States and as of 2 years ago also in Canada when we were invited to go up there and organize some chapters for Canadian Arabs.

We're by far the largest Arab American organization in the United States, with more than 22,000 paid members organized into almost now 70 chapters around the United States, and we have several chapters in Canada as a result of 2 years of organizing work.

We provide assistance to our constituency in areas of immigration, discrimination and, of course, protection against acts of hate violence which have been on the increase toward people of Arab descent in recent years.

We also, of course, involve ourselves in the Palestinian-Israeli conflict, insuring where we can a free flow of information on the conflict to the American public.

We take positions on American policy in the Middle East and our members are active in party politics both on the local and national level.

We began keeping a log of acts of hate violence against people of Arab descent in America following the murder by members of the Jewish Defense League of one of my staff members in California, Alex Odeh.

Alex was our west coast regional director who was a Palestinian by birth, an American by choice and was non-confrontational by nature.

He died when he opened the door of the ADC office in Santa Ana, CA, on the morning of October 11, 1985, and a bomb that had been wired to the inside of the door went off when he opened the door.

Normally, the secretary for the office opened the office in the morning, but on that day she came late because of errands that she had to run.

Now, the point of all this is to tell you that it was our organization at that point—an Arab American organization that was targeted and not an individual, because the bombers didn't know who would open the door that morning.

Now, I think one must understand the background to understand the role that racism, depersonalization and hate violence played in that particular assassination.

Now, the *Achille Lauro* had been hijacked. It was a crime that was on the front pages and it was a lead television news story for days.

It was a great opportunity for demagoguery on the part of President Reagan and other politicians, all of whom played it to the hilt.

The object of their demagoguery was, of course, to make themselves more popular and the target was Arab terrorists and, in short, Arabs, read the code word Arabs all over the United States and all of the world.

There was a great deal of animosity stirred up by opinion leaders against Arabs in general during that period.

It was in this political surrounding that whomever planted the bomb that killed Alex Odeh must have believed that his death would go virtually unnoticed.

Senator SIMON. If I may interrupt. I am sorry to do this. I did not notice that we had a rollcall vote and we're on the second series of bells. And I think we better head over and vote. I don't mean to interrupt your eloquent statement. We'll be back immediately. We will recess briefly.

[A brief recess was taken.]

Senator SIMON. The subcommittee will resume its hearing. I apologize, but if anyone here understands, Senator Abourezk does.

Senator ABOUREZK. I hope you don't make me start all over again. [Laughter.]

It was in the political atmosphere of that Achille Lauro incident that the bombing of Odeh took place.

And the estimate must have been on the part of the bomber that there would be no press given this bombing and there would be no political or popular outcry against it.

It was very much like the atmosphere created by the Nazis in Germany in the 1930's, first dehumanizing Jews and perpetrating the worst treatment, all the while knowing that there would be no protest.

In the cast of Alex Odeh, if indeed that was behind the timing of the bombing, it worked very well. There was virtually no coverage of the death and only Jay Matthews, the Los Angeles correspondent of the Washington Post wrote a story that appeared in the back pages of the Post that talked about Odeh, his killing, his family and so on. Otherwise, nobody would have known that this thing happened.

There was a small story in the Des Moines Register that perhaps expressed the sentiment of most of the media. The headline in the Des Moines Register read "Arafat, Man of Peace, Boom."

That was the extent of it. Then a very short story about a fellow that was—Alex Odeh who was killed because the night before he had given a television interview saying that Arafat was trying to bring peace.

And, of course, everyone knew about Leon Klinghoffer, the unfortunate American who was murdered aboard the Achille Lauro. President Reagan called his family. There were innumerable stories of his life in the newspapers. Senator D'Amato proposed a Congressional Medal of Honor for him.

But Alex Odeh remained anonymous from the beginning to the end, his family receiving nothing more than telephone death threats if they went through with his funeral. The threats never stopped even during the funeral. They were calling in even at that time.

Now the same kind of hatred against Arabs as an ethnic group seems to follow publicized incidents in the Middle East such as—and I want to just make a comment here.

I want to thank the chairman, Senator Simon, who is the only member of the Senate or the House who made any kind of statement on the floor denouncing the killing of Alex Odeh. I think the public ought to know that Senator.

The public—when the incidents in the Middle East are publicized, such as the hoopla surrounding the bombing of Tripoli, Libya, and the demagoguery which led up to it, perhaps politicians and members of the media can begin to understand that their words of hatred are taken at face value by crazies in the society at large, making them believe that they have permission to cross the line.

I would like to believe that collection and publication of such violent acts will serve to make opinion leaders think twice before contributing to the hatred of any ethnic group.

There's a reason for hate violence and these even more paramount reason for stopping it, mostly because it's most dangerous to those who are on the receiving end and because it fosters physical violence toward them.

It must be stopped in any way possible, and I believe that this legislation is a proper way to cut it down or stop it totally.

I hope the committee does not accept the argument by the Justice Department that the cost of keeping such logs are too great.

It is a specious argument that has no place in such a serious matter, much like the argument that one can't determine motives in such crimes.

I also want to say as another—just a side comment—the FBI, at different periods in the last 8 years since we've had this organization, have stepped up their harassment of Arab Americans.

And instead of working to prevent such crimes, what they do is they move to harass, to chill the political activity of people who support an independent Palestinian State and that, to me, should be included in that kind of a law.

I also want to say the argument that that kind of crime should be limited has no real standing in my point of view. What is important is trying to figure out patterns of behavior

And the lesser crimes committed, such as hate violence crimes most certainly would assist in determining the pattern of hate violence toward any ethnic group. Thank you very much, Mr. Chairman.

[The prepared statement of former Senator James Abourezk follows:]

TESTIMONY

James G. Abourezk

Before the Committee on the Judiciary

Subcommittee on the Constitution

June 21, 1988

Permit me to congratulate the Chairman and other members who have co-sponsored this legislation. It is legislation that has been needed for some time now. I believe that the Justice department's recording of incidents of hate violence, and the subsequent publication of those incidents will go a long way toward putting an end them.

Like so many things in this kind of work, most Americans would be opposed to acts of hate violence...if they knew about them. Certainly community pressure can work toward stopping such activities--pressure which would be applied effectively once the community became aware of what is being done.

I want to speak briefly about the objectives of the Committee which I founded and of which I am chairman--the American-Arab Anti-Discrimination Committee. We are a service organization to people of Arab descent in the United States and in Canada. We are by far the largest Arab-American organization in the United States, with more than 22,000 paid members organized into nearly 70 chapters around the United States, and we now have several chapters in Canada.

We provide assistance to our constituency in areas of immigration, discrimination, and of course, protection against acts of hate violence. We also, of course, involve ourselves in the Palestinian-Israeli conflict, insuring where we can a free flow of information on the conflict to the American public. We take

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positions on American policy in the Middle East and our members are active in party politics both on the local and national level.

We began keeping a log of acts of hate violence against people of Arab descent in America following the murder by members of the Jewish Defense League of one of my staff members, Alex Odeh, in Santa Ana, California. Alex was our west coast regional director, a Palestinian by birth, an American by choice, and was totally non-confrontational by nature. He died when he opened the door of the ADC office in Santa Ana on the morning of October 11, 1985. A bomb had been wired to the inside of the door, set to be triggered when the door was pulled open. Normally, the secretary for the office opened in the morning, but on that day she came late because of errands she had to run.

The point of this is to tell you that it was ADC, an Arab American organization, that was targeted, and not an individual. One must understand the background to understand the role that racism, depersonalization, and hate violence played in that particular assassination. The Achille Lauro had been hijacked, a crime that was on the front pages and was the lead television news story for days. It was a great opportunity for demagoguery on the part of President Reagan and other politicians, all of whom played it to the hilt. The object of their demagoguery was, of course, to make themselves more popular. The target was "Arab terrorists," and, in short, "Arabs." There was a great deal of animosity stirred up by opinion leaders against Arabs in general during that period. It was in this political surrounding that whomever planted the bomb that killed Alex Odeh must have believed that his death would go virtually unnoticed, the atmosphere so ugly, that there would be no popular outcry against it. It was very much like the atmosphere created by the Nazis in

Germany in the 1930s--first dehumanizing the Jews, then perpetrating their worst treatment, all the while knowing there would be no outcry.

In the case of Alex Odeh, if indeed that was behind the timing of the bombing, it worked. There was virtually no coverage of the death. Only Jay Matthews, the Los Angeles correspondent of the Washington Post, wrote a story giving Alex's killing something more than the brief treatment it was given in most of the press. The Des Moines Register perhaps expressed the concern of most of the media. Their headline read, "Arafat Man of Peace--Boom!" referring to Alex's TV interview the night before in which Alex had said that Yassir Arafat sought peace for the Palestinians.

Of course, everyone knew all about Leon Klinghoffer, the unfortunate American who was murdered aboard the Achille Lauro. Reagan called his family; there were innumerable stories of his life in the newspapers; Senator D'Amato proposed the Congressional Medal of Honor for him; but Alex Odeh remained anonymous, his family receiving nothing more than more telephoned threats of death if they went through with his funeral a few days later.

The same kind of hatred against Arabs as an ethnic group seems to follow publicized incidents in the Middle East, such as the hoopla surrounding the bombing of Tripoli, Libya, and the demagoguery which led up to it. Perhaps politicians and members of the media can begin to understand that their words of hatred are taken at face value by crazies in the society at large, making them believe they have permission to cross the line. I would like to believe that collection and publication of such violence acts will serve to make opinion leaders think twice before contributing to hatred of any ethnic group.

There is a reason for hate violence. And there is a more paramount

reason for stopping it, mostly because it is dangerous, and because it fosters physical violence. It must be stopped in any way possible, and I believe this legislation is a proper part of that stopping.

I hope the committee does not accept the argument by the Justice Department that the costs of keeping such logs are too great. It is a specious argument that has no place in such a serious matter, much like their argument that one can't determine motives in such crimes. That is not even a serious question. When Jews find their synagogue painted with swastikas, or when Arabs find their mosque defaced with anti-Arab slogans, even the Attorney General would be able to determine the motive.

In addition, the argument that the kinds of crimes should be limited has no real standing. What is important if trying to figure out patterns of behavior, and the lesser crimes most certainly would assist in determining the pattern of hate violence toward any ethnic group.

Thank you.

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Appendix to Abourezk Testimony/
Judiciary Committee/
June 21, 1988

Listed below are examples of anti-Arab hate/violence reports received by the National Office of the American-Arab Anti-Discrimination Committee in 1987.

031887 - San Diego, Ca. - An ADC member wrote a letter to a newspaper editor concerning foreign aid to Israel. On the day the letter was published, threatening and harassing phone calls were received on an answering machine at the member's residence. Statements were made such as "... we hope he gets cancer and dies a slow and agonizing death" and "... you have had it, f--ker, just push us to the limit and see what happens." Two more days of harassing phone calls followed consisting of indecent references to his wife.

041987 - El Cerrito, Ca. - A church that sponsored a Middle East forum including Palestinian viewpoints was destroyed by arson. A fanatical pro-Israeli group claimed responsibility.

060887 - Palo Alto, Ca. - A church presenting a public Middle East forum was vandalized with graffiti on the walls. The program planner received anonymous death threats.

070687 - Houston, Tx. - An ADC staff member received a phone call on the answering machine at the ADC office stating "Do you realize that there is a movement here in the United States to destroy all special interest groups, including the American-Arab Anti-Discrimination Committee. You are in violation of the code which we have set out as the true American society. You will be destroyed...." The FBI is still investigating the case.

071187 - Pittsburg, Ka. - An ADC member and his wife were victims of several violent attacks over a period of two weeks. On one occasion, a rock was thrown at their bedroom window as they were sleeping, shattering the glass. The next day his wife, while driving on the highway, was forced off the road when an oncoming car left its lane and headed towards her. One week later, her husband and his two friends while walking through their neighborhood narrowly escaped injury when a bottle rocket was fired at them. The next day another rock was thrown at the same bedroom window. The couple believes that they have been the object of these attacks because of their adherence to traditional Islamic dress code.

090087 - Los Angeles, Ca. - ADC office was burglarized by an unknown assailant. No suspects have been indentified.

102387 - Washington, D.C. - An ADC staff member received a phone call at the National Office from a person saying "Arabs and Muslims are not covered under the Constitution... Allah is a demon spirit... Mohammed is a false prophet."

Senator SIMON. We thank you, Senator Abourezk. And I understand Dave Brody, who is an old friend, has to head to a funeral. You wish to introduce the next witness.

Mr. BRODY. My name is David Brody and I'm director of the Washington office of the Anti-Defamation League. I want to thank you, Senator, for the invitation to testify here this morning.

The individual who will be testifying, Alan Schwartz, is uniquely well-qualified to present the views of the Anti-Defamation League on this highly significant issue.

He's director of our department of evaluation and research and has beer charged with the responsibility of preparing and supervising our annual audits of anti-Semitic incidents.

Before I ask Alan to give you his brief statement, I'd like to have—be permitted one personal digression. June 24 of this week will mark the 40th anniversary, Senator, of your weekly column in the Troy Tribune and I've been reading it regularly ever since you've been in the Congress.

But there are 365 days a year. I'm delighted that you picked June 24 for the date of your first column, because June 24 also coincidentally happens to my birthday. [Laughter.]

Senator SIMON. That's why I did it, Dave. [Laughter.]

STATEMENT OF ALAN M. SCHWARTZ, DIRECTOR OF RESEARCH, ANTI-DEFAMATION LEAGUE OF THE B'NAI B'RITH

Mr. SCHWARTZ. Before I begin my oral presentation, may I beg the chairman's indulgence for just a moment. I feel I must respond just very briefly to a point raised by Senator Abourezk with regard to the killing of Leon Klinghoffer on the *Achille Lauro*.

I feel it should be said that the condemnation of that morally outrageous act, a terrorist outrage, in no way should be construed as anti-Arab prejudice.

My organization, for one, did issue a condemnation of the killing of Alex Odeh, and I believe that condemning any kind of ethnic prejudice is certainly in order.

But to say that the killing of Leon Klinghoffer and the condemnation, that flowed from many public officials and many decent people—I think that condemnation is the only decent reaction that is possible.

And that should not be construed as anti-Arab prejudice. I don't think it should be used as a device to put it in those terms, and I strongly feel that the terrorist incident on the *Achille Lauro* stands on its own as something that all decent people ought to condemn.

I appreciate the chairman's indulgence.

The ADL has developed experience in monitoring crimes motivated by racial, religious, and ethnic bias and in collecting statistics on vandalism, assaults, threats, and harassment and other crimes motivated by anti-Semitic prejudice.

Since 1979, we've compiled and published an annual audit of anti-Semitic incidents. Copies of the audit have been provided to the committee.

As Mr. Brody noted, one of my duties as research director is supervising the compiling of these audits from our regional offices

and using the information to put together the annual report by our national staff.

ADL uses a standardized reporting form for our regional offices to transmit the information they gather. The form elicits data as to the time and place of the incidents, notification of the police, the degree of damage or injury, possible community response and other information.

And I have submitted a copy of that form to the committee for its convenience.

The audit of 1987 documented a total of 1,018 anti-Semitic incidents around the Nation. These included 694 anti-Semitic vandalism incidents, graffiti on synagogues and the like and another category of incidents, assaults, harassment and threats against Jewish individuals.

That category showed a small rise, to a total of 324, as against 312, reported in 1986.

But the decline of incidents that had taken place before 1987, we feel is traceable, at least in part, to our program of preventive and responsive action.

My written testimony contains a list of ADL's six point counteraction program. I won't take the committee's time at this point to enumerate that, but I commend it to your attention.

One unique and disturbing aspect of the 1987 audit was the fact that many of the anti-Semitic crimes seem to have been committed by young members of neo-Nazi skinhead organizations, a relatively new phenomenon we have been tracking.

This took place in many cities across the country, including Chicago, Los Angeles, and Miami. These groups now comprise over a thousand members.

In compiling our data, we recognize the need to establish bias as a crucial motivating factor in this area. We feel it can be easily ascertained along with the routine investigation of a crime, a swastika on a synagogue and the like.

The audits have shown that most of those arrested for bias crimes have been teenagers acting on their own. And although police departments do not keep records of acts by juveniles as matters of criminal offense—it's understandable but the problem of juvenile crimes is not unique to the bias crime issue and should not diminish or interfere with the need for Federal bias crime legislation.

I would add that while there is now more sensitivity by law enforcement agencies concerning this painful impact of hate crimes, many local officials still tend to view teenage crimes as juvenile mischief or merely pranks.

This is the wrong approach. These acts must be clearly and firmly rejected as unacceptable by all levels of the community.

And in seeking to encourage this understanding, ADL again strongly supports the legislation under consideration by the committee, which would have a major positive effect in this direction.

Senator SIMON. If you could conclude your remarks.

Mr. SCHWARTZ. I will sum up, Senator. ADL believes that, in summary, enactment of this legislation would be most useful in gaining a more reliable picture of the dimensions of the hate crime problem, promote greater public awareness of and professional sen-

sitivity toward the problem and encourage victims and communities to feel that they can respond effectively to counter such activity.

Based on ADL's experience, it's our belief that the costs and efforts involved in such legislation would be relatively minimal to law enforcement, especially since the crimes covered are generally investigated by local police anyway and would take little further effort to report those that are bias related as such.

In short, the legislation seems well worth its modest cost in light of its social benefits.

In human relations numbers alone cannot be the bottom line—yet, numbers are critical to obtaining a better understanding of the nature and dimension of the problem.

And, so, for these reasons, ADL strongly supports passage of Federal bias crimes statistics legislation. Thank you.

[The prepared statement of Mr. Alan Schwartz follows:]

Statement of

Anti-Defamation League of B'nai B'rith

Mr. Chairman and Members of the Committee:

My name is Alan Schwartz. I am Director of the Research and Evaluation Department of the Anti-Defamation League of B'nai B'rith, a civil rights and human relations agency that has been fighting anti-Semitism, racism and other forms of bigotry and discrimination for 75 years. I am accompanied by David Brody, director of ADL's Washington office.

ADL appreciates the opportunity to present its views on the proposed legislation being considered by this Committee -- S. 702, S. 797, and S. 2000 -- mandating the Attorney General to collect data on hate-motivated crimes. It should be noted that bias crimes inflict a unique hurt, evoking painful memories, creating fear, anger and a sense of isolation. Such incidents can damage the very fabric of a pluralistic society, fragmenting our communities. Thus, bias crimes call for a special response.

The ADL has developed experience in monitoring crimes motivated by racial, religious and ethnic bias, and in collecting statistics on vandalism, assaults, threats and harassment and other crimes motivated by anti-Semitic prejudice. Since 1979 we have compiled and published an annual Audit of Anti-Semitic Incidents, reflecting our findings nationwide, and outlining our ongoing program of counteraction.

1987 Audit Data

One of my duties as ADL Research Director is the preparation and supervision of these Audits. The ADL Audits are based on reports gathered by our 31 regional offices around the country -- often involving consultation with local law enforcement officials -- and then compiled and evaluated by our national office research staff.

A basic element in ADL's own bias-crime data collection system is the standardized reporting form used by our regional offices to transmit the information they gather. This form elicits data as to the time and place of the incident; notification of the police; degree of property

damage and/or personal injury, and possible community response, such as editorials and reactions from civic leaders and clergy. I am submitting for the record a copy of the ADL reporting form.

I am also submitting for the record a copy of ADL's 1987 Audit. The report contains our state-by-state figures, other background data and analysis.

The 1987 Audit documented a total of 1,018 anti-Semitic incidents around the nation. These consisted of 694 anti-Semitic vandalism incidents, up about 17 percent from 1986, interrupting a five-year trend of decline in such incidents -- a decline we believe is traceable at least in part to our program of preventive and responsive action.

Assaults, harassment and threats against Jewish individuals and institutions, showed a small rise in 1987, a total of 324 such incidents as against 312 reported in 1986. Unlike vandalism, this category had not reflected a clear pattern of decline in the years 1982-86 and has persisted in the area of 300-350 such incidents reported each year.

A unique and disturbing finding of the 1987 Audit was that numerous serious acts of anti-Semitic vandalism were apparently perpetrated by young, shaven-headed members of neo-Nazi "Skinhead" groups in several cities, including Chicago, Los Angeles and Miami. These "Skinhead" gangs, preaching violence against Jews, Blacks and other minorities, have appeared in at least 12 states and have a combined membership of between 1,000 and 1,500. Several of the Chicago episodes occurred on the night of November 9, the anniversary of the infamous "Kristallnacht," or "Night of Broken Glass," in 1938 in Nazi Germany, when synagogues and Jewish stores were attacked by mobs.

Compiling the Data

ADL's experience in conducting our Annual Audit has made us aware of certain factors involved in compiling hate-crime statistics.

First is the need to establish bias as the motivating factor in an offense. This can be ascertained as part of the routine investigation of a crime -- for example, if a synagogue were smeared with swastikas, or anti-Semitic

epithets, or a written or telephoned threat included anti-Jewish statements, such clear evidence of anti-Semitism would seem readily documentable.

Another kind of issue stems from the nature of the perpetrators. Our Audits have shown that the overwhelming majority of those arrested for bias crimes -- more than 80 percent for a number of years -- have been teenagers acting on their own. Some police departments do not keep records of acts by juveniles as criminal offenses; this is understandable, but it also complicates the gathering of accurate hate-crime statistics. However, the problem of how to treat juvenile offenders is not new or unique to the bias-crime issue, and does not diminish the need for federal crime statistics legislation.

Another point: While recent years have seen greater sensitivity by law enforcement agencies concerning the specially painful impact of hate crimes, many local police departments still tend to view teenage bias-motivated offenses as juvenile mischief, or as pranks. This is the wrong approach. These acts must be clearly and firmly rejected as unacceptable by all levels of the community.

ADL seeks to encourage this understanding. The legislation under consideration by this Committee would have a major positive effect in that direction.

ADL Involvement in Data Collection

ADL has maintained an intensive and expanding interest in the area of bias-crime data collection. Three years ago, in March of 1985, ADL testified before a House Judiciary subcommittee in support of legislation mandating federal collection of hate-crime statistics.

During 1987, ADL testified on this subject before such panels as the U.S. Commission on Civil Rights; the New York Governor's Task Force on Bias-Related Violence; the Iowa State Advisory Committee to the U.S. Commission on Civil Rights; and the International Association of Official Human Rights Agencies.

ADL also served as a major resource for a report prepared for the Justice Department's National Institute of Justice, entitled "The Response of the Criminal Justice System to Bias Crime: An Exploratory Review." The report examined local and federal government activity -- as well as

the efforts of private civil rights and human relations organizations -- responding to the challenge of hate-motivated crimes.

ADL has also been active in sharing its experience on bias-crime reporting with local officials and community groups around the country.

For example, ADL expertise on this subject has proved useful in Southern California, where an upsurge of anti-Semitic vandalism incidents occurred in 1987. ADL participated in a coalition of human relations groups in Los Angeles that helped prepare and review new bias-crime monitoring and reporting procedures which have now been instituted by the Los Angeles Police Department.

Professional experience on this subject has increased; refined and expanded collection efforts have improved the reliability of hate-crime data. We believe that federal legislation in this area will be a major step forward in accurately gauging the dimensions of the hate-crime problem. Knowing the scope of the problem and the trends it reveals are basic to developing programs to reduce and counter such crimes.

An important aspect of prompt, accurate reporting of bias crimes is that such action often sharpens community awareness of this troubling subject, and leads to the reporting of additional incidents by victims who might otherwise be reluctant to come forward. This was the experience of ADL's Chicago regional office last November when, in the wake of the considerable attention attracted by the "Kristallnacht" incidents referred to above, several reports quickly followed concerning previous episodes that had gone undisclosed.

But Government officials and civic leaders will not be in a position to confront bias crimes effectively until the scope of the problem is better known. ADL believes that a federally mandated national effort to compile comprehensive data concerning the number, location, and types of bias crimes would be extremely helpful in this regard.

Most law enforcement agencies do not maintain bias-crime statistics, although they gather and maintain statistics on a wide range of crimes. A 1985 study by the National Organization of Black Law Enforcement Executives (NOBLE) concluded that a special reporting system may

increase reporting of these crimes by victims and have a salutary effect on individual law enforcement preventive strategies.

A 1986 report prepared by the California Department of Justice concluded that legislation to mandate the collection of bias-crime data would "provide legislators and other governing bodies with information for the development and implementation of policy to reduce crimes motivated all or in part by race, ethnicity, and religion" and "provide the public with information which may lead to a greater awareness of the problems of bigotry and prejudice." In addition, the establishment of a bias-crime reporting system would more clearly demonstrate to the community that law enforcement officials have a strong commitment to solving the problem of bias crimes and a stake in vigorously pursuing the offenders.

Conclusion

The ADL Audits are as accurate as we can make them; it is reasonable to assume that many offenses are simply not reported to us. As I have pointed out, however, we believe

that enactment of bias-crime statistics legislation would be most useful in gaining a more complete and reliable picture of the dimensions of the problem of hate crimes; promote greater public awareness of, and professional sensitivity toward, this troubling problem; and encourage victims and communities to feel that they can respond effectively to counter such activity. Based upon ADL's experience, it is our belief that the costs entailed by such legislation would be relatively minimal -- especially since the crimes covered in the bills before the Committee are generally investigated by local police anyway, and it would take little further effort or expense to report those that are bias-related as such. In short, this legislation seems well worth its modest cost in light of its social benefits.

The ADL Program

Collecting data is only one aspect of dealing with hate crimes. I'd like to briefly describe for you other parts of the program the ADL has developed to counter bias crime:

First -- ongoing communication between community and law enforcement officials, including ADL-sponsored security

conferences and sensitivity training with local police bias-crime units.

Second -- physical security measures for institutions which may become targets of attack. In this connection ADL has published the widely used handbook, "Security for Community Institutions," which was prepared in consultation with the New York City Police Department.

Third -- promotion of state laws increasing criminal and civil penalties for ethnic bias crimes. In 1981, ADL developed a model statute in this area; 17 states now have laws based on or similar to our model. More than 30 states overall now have such bias-crime laws. This year, ADL revised its model to include a provision for data collection. Six states -- Connecticut, Illinois, Maryland, Minnesota, Pennsylvania and Virginia -- have enacted bias-crime reporting statutes.

Fourth -- careful, systematic reporting of such incidents to police and to ADL, including use of a standard reporting form described earlier.

Fifth -- outreach and support for the victims; they must know they are not alone and vulnerable.

Sixth and finally -- educational programming for school curricula on prejudice reduction.

We believe these measures have brought some success in dealing with this continuing problem. Effective action and programming require an accurate statistical base. And while in human relations, numbers alone cannot be the bottom line, they are critical to obtaining a better understanding of the nature and dimensions of the problem that must be addressed.

For these reasons ADL strongly supports passage of federal bias-crime statistics legislation.

REPORT FORM— ADL VANDALISM SURVEY

1) Date and Time of Incident:
2) Location:
3) Name and type of target (e.g., synagogue, cemetery, private home, etc.)
4) Nature of incident (e.g., desecration, arson, graffiti, personal attack, etc.)
5) Damages done and estimated cost of damage
6) Injuries (if any):
7) Incident reported to police? Which precinct?
8) Perpetrators apprehended? If so, describe:
9) Did the incident receive press coverage? If so, attach clippings.
10) Was there a response from the community? (e.g., editorials, reactions from civic and religious leaders, etc.)

Additional comments: _____

Report submitted by: _____

Date: _____

1987 Audit of Anti-Semitic Incidents

Introduction

Acts of anti-Semitic vandalism carried out across the U.S. against synagogues, other Jewish institutions and property as reported to the Anti-Defamation League in 1987 totalled 694—a significant increase of nearly 17% over the total of 594 such incidents recorded in 1986. It should be noted, however, that virtually all of this increase resulted from the dramatic rise of 121% recorded in California, where such acts soared from 62 in 1986 to a total of 137 reported this year. Figures from the 33 other states and the District of Columbia where anti-Semitic vandalism incidents took place in 1987 revealed that nationwide these episodes remained at approximately the same level overall as in 1986.[1]

Yet even noting the California upturn the findings still reflect a halt—or at least, a temporary interruption—in the general downward trend in such episodes recorded by the ADL Audit over the previous six years.

Another troubling factor revealed by ADL monitoring is that in 1987, numerous serious acts of anti-Semitic vandalism and desecration were apparently perpetrated by members of young neo-Nazi "Skinhead" groups in several cities, including Chicago, San Diego, Los Angeles and Miami.

For example, during the night of November 9—the anniversary of *Kristallnacht*, the "Night of Broken Glass" in 1938 when synagogues and Jewish owned stores all over Germany were attacked by Nazi mobs—11 separate Jewish targets were vandalized in the Chicago area. A Skinhead gang member was arrested in connection with one of these incidents. Also, in Los Angeles' San Fernando Valley, a series of similar episodes struck the Jewish community over a three-month period in early 1987. Several of these attacks, too, were believed to have been carried out by Skinhead members, one of whom was arrested and charged in one of the attacks.

Anti-Semitic vandalism activity by such neo-Nazi extremists comes, paradoxically, in the wake of a two-year period (1985-87) that has witnessed the greatest number of federal indictments and successful prosecutions of hate group figures in many years. During this period, local law enforcement action as well, in the form of vigorous investigation, arrests and convictions, has also been increasingly effective in countering organized hate-group criminality.[2]

A further notable finding in 1987: Overall arrest statistics reveal a higher percentage of arrests in the 21-and-older category (about one of every five arrests) than in any previous ADL Audit—perhaps reflective of the Skinhead activity described earlier.

The Hate-Group Factor

The Skinhead component in this year's record of anti-Semitic vandalism incidents

[1] Such incidents in California had steadily declined in recent years, as they had across the country; if the California figures for 1987 had merely held steady at their 1986 levels—as they did, generally speaking, around the rest of the U.S.—the nationwide total of vandalism incidents for 1987 would have showed only a modest rise of about 4%.

[2] These federal and state actions have included the conviction and sentencing to long prison terms of members of the anti-Semitic revolutionary gang known as The Order; the conviction in a Nevada federal court of several far-right extremists comprising "The Committee of the States" for threatening the lives of government officials; the conviction on civil rights charges of Order members involved in the 1984 murder of Jewish radio personality Alan Berg in Denver; the conviction of two Ku Klux Klan members for violation of Florida's anti-paramilitary training statute, based on ADL model legislation; and the indictment by a federal grand jury in Arkansas of 15 far-right extremists on charges of conspiracy to commit violent crimes, including murder.

represents a disturbing finding in the 1987 Audit: A highly visible rise in the number of anti-Semitic incidents involving members of an identifiable hate group. This factor accounted for no more than one or two episodes in several previous audits.[3] But in 1987, primarily because of the Skinhead episodes, the number jumped to at least 20; some uncertainty persists about precise figures due to possible "copy-cat" incidents perpetrated in nearby areas and inspired by—but not directly involving—Skinheads. While this number represents less than three percent of the 694 anti-Semitic vandalism incidents reported, it is still a danger signal suggesting a need for vigorous monitoring and counteraction. (For more information about the Skinhead phenomenon, see also " 'Shaved for Battle': Skinheads Target America's Youth", ADL *Special Report*, November 1987.)

Serious Crimes

Of the 694 vandalism incidents reported during 1987, 10 involved arson or bombings. There were 5 cases of arson compared to 4 reported cases in 1986. In addition, there were three attempted arsons—the same total as in 1986.

This year, among the arson incidents were the targeting of two synagogues, one in Massachusetts and one in California. Both suffered major damage. Unsuccessful arson attempts targeted Jewish institutions in New York, Pennsylvania and Virginia.

There were two pipe-bombings reported in 1987, as against 1986, when there was one bombing and one attempted bombing. In 1987 the targets of bombs were Jewish-owned homes in Georgia and Ohio. In both cases damage was minimal.

All told, in 1987 serious crimes in this category fell to the lowest total recorded since 1979—12 incidents.

Cemetery Desecrations

The overturning or desecration of gravestones is a form of vandalism that is especially painful to any community. The 1987 Audit recorded the lowest total ever for cemetery desecrations—two. In 1986 there had been 9; the annual average from 1981-85 was nearly 11.

Geographic Breakdown

The states reporting the greatest levels of anti-Semitic vandalisms in 1987 were as follows: (see appendixes A and B for complete state-by-state breakdowns).

The highest total of incidents, as in past years, was reported in New York with 207, up 21 from 1986. (New York City figures, however, declined.)[4] The largest state increase, as noted earlier, occurred in California—137, up 75. Next was Florida, with 64 (down 15), then New Jersey, 43 (down 5); Illinois, 36 (up 22); Massachusetts, 27 (up 3); Maryland, 23 (down 7); and Pennsylvania, 22 (down 5).

At the next level is Georgia with 15, then Michigan and Minnesota with 14 incidents each. There were 10 incidents in Ohio. Colorado had 9, while Louisiana, Rhode Island and Virginia each reported 8 incidents. There were 7 incidents each in Mississippi and Texas and 6 each in Arkansas and Connecticut.

The remaining states in the survey each reported fewer than 5 incidents.

Regionally, the northeastern states of New York (207), New Jersey (43), Massachusetts (27), Maryland (23), Penn-

[3] These few, of course, have included such serious incidents as the 1983 bombing of an Indiana synagogue by members of an anti-Semitic "survivalist" group called the Covenant, the Sword and the Arm of the Lord; the 1984 bombing of an Idaho synagogue religious school by members of the anti-Semitic gang called The Order; and the 1984 murder of Jewish radio personality Alan Berg in Denver. In connection with the latter crime, two members of The Order were convicted in November 1987 of civil rights violations and on December 3rd, were each sentenced to 150 years in prison.

[4] There were 16 fewer incidents reported for New York City (a total of 91) in 1987 than were reported in 1986. In the surrounding suburban counties on Long Island and to the north of the city, there was an increase of 37 incidents in 1987. The net result comprises the 21 incident increase for New York State.

sylvania (22), Rhode Island (8), Connecticut (6) and New Hampshire (1) combined for a total of 337 vandalism incidents—7 more than in 1986, a 2% increase. In 1987, this total is 48.6% of the national figure. In 1986 this region accounted for 55.5% of the national total and 60% in 1985.

The Southern states had an 11% increase in incidents during 1987. It should be noted that relatively small actual numbers may render percentages of increase or decrease less meaningful. The South reported a combined total of 115 incidents: Florida had 64, followed by Georgia (15), Virginia (8), Louisiana (8), Mississippi (7), Texas (7) and Arkansas (6). The seven Southern states accounted for 16.5% of the national total. The year before, this region's smaller total of 103 incidents actually accounted for a greater percentage of the national total in 1986—17.3%.

In the Midwest, 9 states combined for a total of 85 incidents—12.2% of the national total. In 1986 there had been 84 incidents of vandalism reported from this region. In 1987, the state reporting the highest total was Illinois (36), followed by Michigan and Minnesota (14 each), Ohio (10), Missouri (4), Indiana (3), Oklahoma (2), Wisconsin and Nebraska (1 each).

The surge of incidents in California during 1987 fueled a 104% increase over 1986 figures for the Western region of the country. Also contributing to the total of 157 incidents in the West were Colorado (9), Washington (4), Arizona (3), and Oregon, Nevada, New Mexico and Montana (1 each). While in 1987 the West provided 22.6% of the national total, its share of the national total in 1986 was 13%.

Anti-Semitic Harassment, Threats and Assaults

In addition to the 694 vandalism incidents, there were 324 incidents reported in the separate category of assaults, threats and harassment. The survey showed 80 of these incidents were directed at Jewish institutions in the form of hate-mail and telephoned threats. In 1986, 71 similar incidents were directed at Jewish institutions.

The vast majority—244 incidents—were reported by Jewish individuals who were targeted either through the mail, over the telephone, or one-on-one in a verbal confrontation. On 16 occasions, individual Jews suffered physical attacks clearly motivated by bigotry. In 1986 there had been 11 such personal assaults reported; in 1985 there were 17.[5] Over the past five years, the figures for this category of incidents have remained fairly constant, hovering around the 300-350 level.

The continuing problem of personal harassment, threats and assaults requires a vigorous counteraction approach. Such counteraction should include repudiation by public officials of such behavior, educational programming, sensitivity toward the victim, enhanced community awareness, and, of course, effective legal action.

Arrests

In 1987, police departments in 15 states arrested a total of 78 individuals in connection with 58 of the reported incidents of all kinds. (This includes the previously discussed Skinhead arrests.) In 1986, the figures were 57 arrests in connection with 33 incidents in 9 states.

A notable element in this year's arrest statistics is that nearly 22% of those arrested were 21 years of age or older. This is the highest percentage of arrests in that age group noted so far in any ADL Audit, and may reflect the additional activity in this area by organized bigots. It is still true,

[5] In the early morning of December 25, an Orthodox Jewish man was brutally stabbed to death on a street in the largely Jewish Boro Park section of Brooklyn. He was reportedly wearing the identifiable black garb and sidecurls of a religious Jew. His wallet and wristwatch were not taken. No arrests have been made. The New York City Police Department's Bias Incident Investigating Unit has investigated the case but has not, to date, classified it as a bias crime.

however, as in the past, that the vast majority of all those arrested were teenagers. It might be added that this fact leads to another problem: Arrest and conviction records of juvenile offenders are often sealed by courts. This is understandable, and often useful for purposes of deterrence and rehabilitation. But it does complicate accuracy in data collection on bias crimes.

Campus Incidents

In another area examined in some detail by the 1987 Audit, the reported anti-Semitic incidents at university campuses showed a decline from 19 last year to 14 this year. Most of these were episodes of harassment involving verbal slurs or "hate mail." Four incidents involved the targeting of Jewish property or institutions such as a fraternity house or Hillel building. Schools in Florida, Pennsylvania, Colorado and California reported anti-Semitic graffiti during 1987. Campus officials in Massachusetts and Ohio were the targets of mailed anti-Jewish threats. Also, in Wisconsin, Jewish students were subjected to physical assaults.

One troubling anti-Semitic campus problem has been that of "Jewish American Princess"—or "J.A.P."—jokes, slurs and materials. At several campuses—notably Boston, Syracuse and American Universities—Jewish female students have been targeted with insulting and grossly offensive or sexually suggestive remarks, jeers and taunts, as well as banners, posters and the like—generally in a nasty, mocking tone—relating to alleged negative traits of these Jewish women. While it is difficult to describe this phenomenon in terms of specific numbers of episodes, it remains a disturbing form of anti-Semitic harassment. At the same time, some campus administrations—for example that of Syracuse University—have engaged in programming with input from ADL to counter the harmful effects of such offensive stereotyping, as well as other acts of ethnic bias. Such acts are clearly incompatible with, and repugnant to, an environment dedicated to higher learning.

Anti-Semitism in the U.S.

The ADL Audit provides one useful barometer of anti-Semitism in the United States. But it is not the only such measurement. Other manifestations of anti-Semitism are found in the United States in various forms:

- In the activities of organized right-wing hate groups, whose membership has declined, but whose actions have turned increasingly violent, and as noted earlier, many of whose members were convicted and sentenced to long prison terms in 1986 and 1987 for a variety of serious crimes. Such groups include The Order, the KKK, the Posse Comitatus and the "Identity Churches";

- In the menacing presence in several U.S. cities of gangs of young shaven-headed neo-Nazis known as "Skinheads," whose racism and anti-Semitism have led recently to several serious acts of violence;

- In the propaganda of Willis Carto's Liberty Lobby, and Lyndon LaRouche's organization—the latter coming under wide-ranging investigation during 1986 and prosecution in 1987 by the U.S. Justice Department and other federal and state agencies for various alleged financial irregularities;

- In the propaganda carried on by anti-Israel and anti-Zionist organizations in the U.S., including radical leftist groups, via publications, publicity campaigns and campus activities, whose vitriolic attacks upon the Jewish state of Israel and Zionism go well beyond legitimate political criticism or discourse;

- In the provocative rhetoric of black extremist Louis Farrakhan, who has continued to attract responsive audiences; and

- In the pockets of discrimination and

sterotyping still experienced by Jews in the corporate world and other areas of American life.

A Final Note: The Special Pain of Bias Crimes

The 1986 Howard Beach case in New York City, in which a gang of white youths assaulted three black men and chased one to his death on a nearby highway, was probably the most widely reported bias incident in recent years. Its tragic result dramatized for all Americans that bias crimes are not merely childish pranks.

On December 21, 1987, three of the defendants were convicted of manslaughter and assault. The verdict and the outpouring of emotional reaction it generated sharpened the nation's focus on the uniquely painful nature of such crimes, as well as on the terrible price of prejudice.

At a ceremony which marked the signing in 1987 of legislation requiring the Illinois state police to collect information on racially and ethnically motivated crimes, the director of ADL's Chicago office observed:

> Bias crimes inflict a special hurt, evoking painful memories, creating fear and anger. . .a sense of vulnerability, of suspicion, of isolation. Such incidents can damage the very fabric of society, fragmenting our communities.

Clearly, bias crimes call for a special response.

A Program of Counteraction

ADL has promoted and supported a combination of counteractive measures over the last several years to enable Jewish and other communities to protect themselves against vandalism and other bias attacks. Major elements of this program are detailed here.

Security Conferences

In cooperation with police and other law enforcement agencies, many ADL offices have carried out programs of public education emphasizing the need for stronger security measures at houses of worship and other institutions. The offices have sponsored security conferences bringing together leaders of community institutions, clergy, educators and law enforcement officials to discuss problems of bias-oriented attacks and the importance of stronger security measures, including the need for greater building security. During 1987 regional offices from the following states have sponsored major security conferences: Arizona, California, Massachusetts, Ohio, Pennsylvania and Washington. Several of these conferences have involved outreach to schools, churches, and other institutions beyond the Jewish community.

By coordinating police and local institutional leadership, the seminars have established greater community awareness of practical bias crime-prevention measures, stronger support among cooperating agencies and heightened sensitivity by public officials for the citizens they serve.

Security Handbook

The ADL handbook, *Security for Community Institutions*, is a practical counteraction tool. ADL issued an updated version of this document during 1987. The handbook, first published in 1984 and widely distributed across the United States, aims at preventing—and coping with—destructive violence against persons and property, particularly that motivated by religious or racial prejudice. Prepared in cooperation with the Crime Prevention Section of the New York City Police Department, it is based on ADL's experience in monitoring and countering anti-Jewish vandalism and other crimes directed at Jews and Jewish-owned property. It reflects the knowledge gained by the League in working closely with law enforcement agencies from coast to coast and in co-sponsoring security conferences and workshops. The ADL handbook has

received endorsements from local and federal law enforcement officials.

The handbook details security measures and procedures for community institutions; proper reaction when incidents occur; provides information on security programs carried out by the New York City Police Department's Crime Prevention Section and its Bias Incident Investigating Unit; a model form for reporting such incidents to local police departments; and the text of a model state statute developed by ADL as a tool to assist law enforcement agencies in coping with problems such as vandalism against religious and ethnic institutions.

New Laws

Over the last several years, 31 state legislatures have adopted stricter laws aimed at curbing ethnic vandalism and similar violations; most of these states adopted legislation based on, or similar to, a model bill drafted in 1981 by the ADL. (See Table, Appendix E.)

It should also be noted that in 1987 Illinois became the fourth state to pass a statute mandating a bias-crime reporting statute as part of an expanding governmental response to hate crimes. Maryland, Pennsylvania and Connecticut had earlier passed such laws.

On the federal level, Congress is considering new legislation dealing with bias crimes. In the fall of 1987, the House of Representatives passed a bill (HR 3258) sponsored by Rep. Dan Glickman (D-Kansas) which would establish criminal penalties for bias-related crimes. As of this Audit report's publication date, the Senate Judiciary Committee had not taken action on a companion bill (S 794) sponsored by Senator Howard Metzenbaum (D-Ohio).

Another Glickman-sponsored bill (HR 3193), passed by the House Judiciary Committee, would federalize hate-crime reporting by requiring the U.S. Attorney General to collect and publish such statistics annually. ADL has testified in favor of this proposal. Due to continuing debate over certain elements of the proposed measure, the full House has not yet taken action on it. A companion bill sponsored by Senator Paul Simon (D-Illinois) is pending in the Senate.

ADL has been supportive of such legislative efforts, and hopes that these or similar proposals will be adopted in the new Congressional session.

ADL's Expanding Role in Bias-Crime Reporting

Initially as innovator, ADL has increasingly become a center-stage player in efforts to enhance monitoring of bias crimes and the systematic collection of such data. During 1987, ADL staff testified before such panels as the U.S. Commission on Civil Rights; the New York Governor's Task Force on Bias Related Violence; the Iowa State Advisory Committee to the U.S. Commission on Civil Rights; and the International Association of Official Human Rights Agencies.

ADL also served as a major resource for a report prepared for the Justice Department's National Institute of Justice, entitled "The Response of the Criminal Justice System to Bias Crime: An Exploratory Review." The report examined local and federal government activity—as well as the efforts of private civil rights and human relations organizations—on the issue.

ADL has also been active in sharing its experience on bias-crime reporting with local officials and community groups around the country.

For example, ADL expertise on this subject has proved useful in Southern California, where, as noted, an upsurge of anti-Semitic vandalism incidents occurred in 1987. ADL participated in a coalition of human relations groups in Los Angeles that helped prepare and review new bias-crime monitoring and reporting procedures which have now been instituted by the Los Angeles Police Department.

An important aspect of prompt, accurate reporting of bias crimes is that such action often sharpens community awareness of this troubling subject, and leads to the reporting of additional incidents by victims who might otherwise have been reluctant to come forward. This was the experience of ADL's Chicago regional office last November when, in the wake of the considerable attention attracted by *Kristallnacht* incidents described above, several reports quickly followed concerning previous episodes that had gone undisclosed.

All these reports require follow-up and analysis. An article in the December 25 *New York Times* noted that complaints of racially motivated acts doubled in New York City in the year following the Howard Beach racial incident, as compared to 1986. But as New York City Police Commissioner Benjamin Ward commented in the same *New York Times* article:

> It's very hard to tell whether there's been an actual increase in bias incidents. I think any time you focus attention on anything like hate crimes, you tend to get an increased level of reporting.

Professional experience on this subject has increased; refined and expanded collection efforts have improved the reliability of hate-crime data, accurately gauging the dimensions of the hate-crime problem. Knowing the scope of the problem and the trends it reveals are basic to developing remedies.

To facilitate accurate tabulation, ADL utilizes a standardized reporting form with which our regional offices document incidents. The reporting process elicits information as to the time and place of the incident; notification of law enforcement; degree of property damage and/or personal injury and possible community response, e.g., editorials, reactions from civic leaders and clergy.

Completion of this "intake" form often entails contact with the victims of ethnic vandalism, assault and harassment—which translates into sympathetic, supportive outreach during the painful period that often follows these attacks.

Shaare Tefila: A New Counteraction Approach

On May 18, 1987 the U.S. Supreme Court handed down a decision with important implications in the fight against anti-Semitic vandalism and other bias crimes. The Court's decision in *Shaare Tefila Congregation v. Cobb* allowed a desecrated synagogue to sue the perpetrators of the vandalism for civil damages using an 1866 civil rights law which prohibited acts of racial discrimination.

In order to understand how this ruling came about, as well as its implications, it is useful to examine the history of the case.

The *Shaare Tefila* case stemmed from an incident of anti-Semitic vandalism which occurred in November 1981, when the synagogue, located in Silver Spring, Maryland, was defaced. Huge, red anti-Semitic graffiti, including swastikas, a skull and crossbones, a burning cross, a Nazi eagle, and such slogans as "Death to the Jude" and "Take a shower Jew" were painted on its walls. The desecration prompted the synagogue's members to file a lawsuit seeking redress from the perpetrators following their arrest and conviction.

In its complaint, the synagogue invoked the Civil Rights Act of 1866, a post-Civil War race discrimination statute providing, among other things, that "all persons within the jurisdiction of the United States shall have the same right . . . to the full and equal benefit of all laws . . . as is enjoyed by white citizens."

Shaare Tefila's argument, echoed in an *amicus curiae* brief filed by ADL was that even though Jews are not a separate race, and do not regard themselves as such, they are covered by the statute which protects not only blacks but all ethnic groups. Further-

more, ADL contended, the vandalism in *Shaare Tefila* was "racially motivated," and "federal remedies for racially-discriminatory conduct should not be limited by narrow and arbitrary definitions of race."

In the Supreme Court's decision, Justice White wrote that Shaare Tefila stated a viable claim, because at the time the statute was adopted, "Jews constituted a group of people that Congress intended to protect."

The Supreme Court's broad reading of the Civil Rights Act of 1866 to apply not merely to blacks but also to other victims of ethnic discrimination will likely have a significant impact on future civil rights litigation. A new avenue of redress has in effect been created, which goes well beyond the employment discrimination prohibitions of Title VII of the Civil Rights Act. Unlike Title VII, the 1866 Act exposes those who engage in anti-Semitic acts to civil damages, allows for jury trials, and has a more lenient statute of limitations. As a consequence, the Court's action can be viewed as a landmark in the historic struggle to eradicate all forms of bigotry.

Educational Efforts

The nation's schools must be included in any equation designed to address the problem of bigotry. School systems, individual schools, teachers and professional organizations can carry out instructional programs to assist communities in countering bias among students. Confronting and eliminating prejudice should be an educational priority apparent in most communities across the U.S.

In 1985 ADL developed and launched a major school and media based prejudice awareness and reduction project, called "A World of Difference." It is designed to reduce community racial, ethnic and religious friction in a realistic and measurable way. "A World of Difference" projects in ten cities[6] across the U.S. use material written and designed by both local and national educational authorities. It is distributed to teachers and students in each area, with local television stations reinforcing the educational component by orchestrating massive public outreach through the creation and airing of specially produced programming over the course of a year. These efforts include prime time specials, documentaries, editorials, news mini-series, and public service announcements. Network affiliates cover costs for on-air time and services, and local businesses and individuals cover other project expenses.

In addition, ADL has published and distributed throughout the U.S. a prejudice-fighting manual for elementary students entitled "Teacher, They Called Me a—!." The manual, subtitled "Prejudice and Discrimination in the Classroom," deals with such topics as learning about prejudice, discrimination against the disabled, race and ethnicity, religion, differences in life style, and the influence of gender on how children are treated. In addition to giving teachers 69 classroom activities for fighting prejudice and discrimination, the manual contains a bibliography of children's books which can provide teachers with extra material to handle these problems.

Conclusion

Several disturbing factors stand out among the findings in ADL's 1987 Audit of Anti-Semitic Incidents. These include: (a) the increased involvement of organized hate-group members—i.e., neo-Nazi "Skinheads"—in episodes of vandalism against synagogues and other Jewish property; (b) a dramatic surge in the number of incidents reported from California, and the increase, albeit modest, in the national

[6] The cities currently involved in "A World of Difference" programming are: Albany, Boston, Detroit, Houston, Los Angeles, Miami, New York, Philadelphia, San Francisco and St. Louis.

totals — the first upturn since 1984, and only the second such rise in six years; and (c) more arrests than in earlier years of older suspects (i.e., over 21 years of age) in connection with anti-Semitic incidents.

These findings indicate the need for even more vigorous law enforcement against bias related crimes—although, to be sure, legal and legislative counteraction measures have been increased and enhanced in recent years. The Audit's findings underscore, too, the need for innovative educational efforts against the disturbing persistence of anti-Semitism and racism in our country. For what is taught to combat prejudice at home, in school and in houses of worship will, in large measure, determine if society can effectively control and deter such bigotry. The ADL Audit is published as a contribution toward that goal.

Appendix A

THE 1987 ADL AUDIT OF ANTI-SEMITIC VANDALISM AND OTHER INCIDENTS

	VANDALISM										ASSAULTS, THREATS, HARASSMENT				ALL 1987 ARRESTS			
STATE	1987 TOTAL	'86/'87 CHANGE	1987 LOCATIONS INST-PVT-PUB			SERIOUS CRIMES ARS/att	BMB/att	CEM. DES.			TARGETS INST/IND.	1987 TOTAL	1986 TOTAL		CASES	INDS.	AGES 20 or UNDER/	AGES 21 and OVER
1. NEW YORK	207	196 +21	71	99	37	0	1	0	0	1	12..	93..	105	76	15	27..	26 /	1
2. CALIFORNIA	137	62 +75	43	64	30	1	0	0	0	0	8..	18..	26	26	11	9..	6 /	3
3. FLORIDA	61	79 -15	7	16	41	0	0	0	0	0	8..	12..	20	18	1	2..	2 /	0
4. NEW JERSEY	43	48 - 5	9	22	12	0	0	0	0	0	7..	11..	18	31	5	9..	6 /	3
5. ILLINOIS	36	14 +22	10	20	6	0	0	0	0	0	5..	4..	9	12	11	1..	0 /	1
6. MASSACHUSETTS	27	24 + 3	5	10	12	1	0	0	0	0	4..	16..	20	25	1	1..	0 /	1
7. MARYLAND	25	30 - 7	2	12	9	1	0	0	0	0	1..	10..	11	7	1	2..	2 /	0
8. PENNSYLVANIA	22	27 - 5	6	10	6	0	1	0	0	0	3..	11..	14	25	0	0..	0 /	0
9. GEORGIA	15	4 +11	3	9	3	0	0	1	0	0	5..	8..	13	10	0	0..	0 /	0
10. MICHIGAN	14	35 -21	4	10	0	0	0	0	0	0	0..	5..	5	2	0	0..	0 /	0
11. MINNESOTA	14	9 + 5	0	9	5	0	0	0	0	0	1..	14..	15	11	0	0..	0 /	0
12. OHIO	13	12 + 0	5	5	0	0	0	1	0	0	3..	16..	19	20	1	1..	0 /	1
13. COLORADO	9	4 + 5	7	1	1	0	0	0	0	0	0..	0..	0	1	0	0..	0 /	0
14. LOUISIANA	8	2 + 6	5	3	0	0	0	0	0	0	0..	0..	0	3	0	0..	0 /	0
15. RHODE ISLAND	8	6 + 2	3	3	2	0	0	0	0	0	0..	2..	2	4	4	1..	0 /	1
16. VIRGINIA	8	5 + 3	4	4	0	0	1	0	0	0	0..	2..	2	4	0	0..	0 /	0
17. MISSISSIPPI	7	0 + 7	4	3	0	0	0	0	0	0	0..	0..	0	0	2	3..	3 /	0
18. TEXAS	7	8 - 1	5	2	0	0	0	0	0	0	1..	2..	3	0	0	0..	0 /	0
19. ARKANSAS	6	1 + 5	1	5	0	0	0	0	0	0	0..	0..	0	0	0	0..	0 /	0
20. CONNECTICUT	6	5 + 1	2	4	0	2	0	0	0	1	2..	3..	5	2	1	12	12 /	0
21. MISSOURI	4	3 + 1	1	2	1	0	0	0	0	0	1..	0..	1	0	0	0..	0 /	0
22. WASHINGTON	4	2 + 2	1	1	2	0	0	0	0	0	5..	1..	6	12	2	5..	4 /	1
23. ARIZONA	3	2 + 1	1	1	1	0	0	0	0	0	12..	0..	12	0	1	1..	0 /	1
24. INDIANA	3	1 + 2	1	1	1	0	0	0	0	0	1..	1..	2	2	1	2..	0 /	2
25. OKLAHOMA	2	0 + 2	2	0	0	0	0	0	0	0	0..	0..	0	0	0	0..	0 /	0
26. MONTANA	1	0 + 1	0	1	0	0	0	0	0	0	0..	0..	0	0	0	0..	0 /	0
27. NEBRASKA	1	5 - 4	0	1	0	0	0	0	0	0	0..	7..	7	1	0	0..	0 /	0
28. NEVADA	1	0 + 1	0	1	0	0	0	0	0	0	0..	1..	1	0	0	0..	0 /	0
29. NEW HAMPSHIRE	1	0 + 1	0	0	1	0	0	0	0	0	0..	0..	0	0	0	0..	0 /	0
30. NEW MEXICO	1	0 + 1	0	0	1	0	0	0	0	0	0..	1..	1	0	0	0..	0 /	0
31. OREGON	1	5 - 4	0	0	1	0	0	0	0	0	0..	1..	1	11	0	0..	0 /	0
32. WISCONSIN	1	6 - 5	0	1	0	0	0	0	0	0	0..	1..	1	4	1	2..	0 /	2
33. ALABAMA	0	0 + 0	0	0	0	0	0	0	0	0	1..	0..	1	0	0	0..	0 /	0
34. SOUTH CAROLINA	0	0 + 0	0	0	0	0	0	0	0	0	0..	3..	3	0	0	0..	0 /	0
35. WASH. DC	0	3 - 3	0	0	0	0	0	0	0	0	0..	1..	1	0	0	0..	0 /	0
* Idaho	0	2 - 2	0	0	0	0	0	0	0	0	0..	0..	0	1	0	0..	0 /	0
* Iowa	0	0 + 0	0	0	0	0	0	0	0	0	0..	0..	0	2	0	0..	0 /	0
* Kansas	0	1 - 1	0	0	0	0	0	0	0	0	0..	0..	0	0	0	0..	0 /	0
* Kentucky	0	0 + 0	0	0	0	0	0	0	0	0	0..	0..	0	1	0	0..	0 /	0
* Maine	0	1 - 1	0	0	0	0	0	0	0	0	0..	0..	0	0	0	0..	0 /	0
* North Carolina	0	1 - 1	0	0	0	0	0	0	0	0	0..	0..	0	0	0	0..	0 /	0
* Tennessee	0	3 - 3	0	0	0	0	0	0	0	0	0..	0..	0	1	0	0..	0 /	0
1987 TOTALS -	643	594 +100	202	320	172	5	3	2	0	2	80	244	324	312	58	78	61	17

* These states are listed for comparison to 1986.

Appendix B

THE 1987 ADL AUDIT OF ANTI-SEMITIC VANDALISM AND OTHER INCIDENTS
NEW YORK STATE

	VANDALISM									ASSAULTS, THREATS AND HARASSMENT				ALL 1987 ARRESTS			
	1987 TOTAL	'86/'87 CHANGE	1987 LOCATIONS INST-PVT-PUB	SERIOUS CRIMES ARS/att	BMB/att	CEM. DES.				TARGETS INST/IND.		1987 TOTAL	1986 TOTAL	CASES	INDS.	AGES 20 or UNDER/	AGES 21and OVER
1. MANHATTAN.....	27	14 +13	9...13...5	0	0	0	0	0	0	2..	9..	11 ...	4	0...	0..	0 /	0
2. BROOKLYN.....	37	53 -16	17...17...3	0	1	0	0	0	0	0..	17..	17 ...	8	4...	11..	11 /	0
3. QUEENS.....	22	29 - 7	8...11...3	0	0	0	0	0	0	0..	7..	7 ...	8	1...	1..	1 /	0
4. BRONX.....	2	10 - 8	2... 0...0	0	0	0	0	0	0	0..	0..	0 ...	5	0...	0..	0 /	0
5. STATEN ISLAND.	3	1 + 2	3... 0...0	0	0	0	0	0	0	1..	1..	2 ...	2	0...	0..	0 /	0
6. UPSTATE.....	15	12 + 3	5... 8...2	0	0	0	0	0	0	0..	1..	1 ...	0	1...	2..	2 /	0
7. NASSAU COUNTY.	60	31 +29	13...31..16	0	0	0	0	0	1	4..	11..	15 ...	7	6...	10..	9 /	1
8. SUFFOLK COUNTY	41	36 + 5	14...19...8	0	0	0	0	0	0	5..	47..	52 ...	42	3...	3..	3 /	0
1987 TOTALS -	207	186 +21	71 99 37	0	1	0	0	1		12	93	105	76	15	27	26	1

Appendix C

COMPOSITE TOTALS AND BREAKDOWNS OF ANTI-SEMITIC INCIDENTS
1979-1987

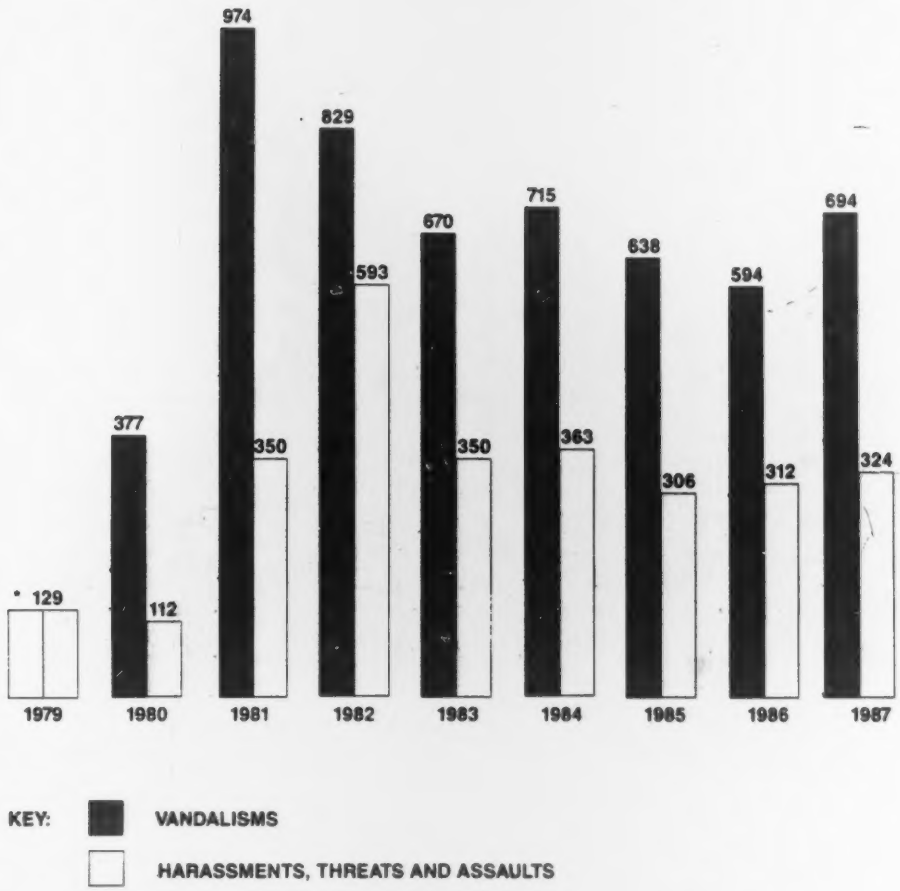
	1979	1980	1981	1982	1983	1984	1985	1986	1987	TOTAL
VANDALISMS:.....	129	377	974	829	670	715	638	594	694..	5620
Institutions.....	78	157	255	197	162	196	165	159	202..	1571
Private Jewish-Prop...	51	150	423	317	321	317	244	241	320..	2424
Public Locations.....	0	60	296	285	187	202	229	194	172..	1625
(Arsons.....	10	10	10	7	3	9	6	4	5..	64)
(Att. Arsons.....	0	2	6	7	10	8	5	3	3..	44)
(Bombings.....	2	4	4	3	0	3	3	1	2..	22)
(Att. Bombings....	0	2	2	0	1	1	3	1	0..	10)
(Cemetery Des.....	0	5	15	15	9	11	4	9	2..	70)
ASSAULTS, THREATS, and HARASSMENTS:.....		112	353	593	350	369	306	312	324..	2715
Institutions.....			63	136	39	106	48	71	80..	543
Individuals.....			287	457	311	263	258	241	244..	2061
COMPOSITE TOTALS:	129	489	1324	1422	1020	1084	944	906	1018	8335

NOTE: Reports of Arsons, Attempted-Arsons, Bombings, Attempted-Bombings and Cemetery Desecrations are always included in the Vandalism totals.

Also, the 1980 Assaults, Threats and Harassment reports were not broken down and they are not reflected in the sub-totals. In 1979, incidents for those catagories were not reported.

Appendix D

ADL AUDIT OF ANTI-SEMITIC EPISODES
VANDALISM
HARASSMENTS, THREATS AND ASSAULTS
NATIONAL TOTALS 1979-1987



* 1979 report recorded only "Anti-Semitic incidents," without separate category of threats, harassment, etc.

Appendix E

TABLE OF STATES WITH "ETHNIC-CRIME" STATUTES

(Prepared by ADL Legal Affairs Dept.)

	Ethnic Vandalism	Ethnic Intimidation	Based on ADL Model	Similar to ADL Model	Parental Liability	Civil Penalty
1) Alabama	X				X	
2) Alaska					X	
3) Arizona	X				X	
4) Arkansas					X	
5) California	X	X		X	X	
6) Colorado	X				X	
7) Connecticut	X	X		X	X	
8) Delaware					X	
9) Florida	X				X	
10) Georgia	X					
11) Hawaii	X					
12) Idaho	X	X		X		X
13) Illinois	X	X	X		X	X
14) Indiana	X	X	X		X	
15) Iowa					X	
16) Kansas	X				X	
17) Kentucky					X	
18) Louisiana	X		X			
19) Maine	X				X	
20) Maryland	X	X				
21) Massachusetts	X	X	X		X	X
22) Michigan					X	
23) Minnesota					X	
24) Mississippi	X				X	
25) Missouri						

	Ethnic Vandalism	Ethnic Intimidation	Based on ADL Model	Similar to ADL Model	Parental Liability	Civil Penalty
26) Montana					X	
27) Nebraska					X	
28) Nevada					X	
29) New Hampshire						
30) New Jersey	X	X				
31) New Mexico	X				X	
32) New York	X	X		X	X	X
33) North Carolina					X	
34) North Dakota					X	
35) Ohio	X	X	X		X	X
36) Oklahoma	X	X		X	X	
37) Oregon	X	X		X	X	X
38) Pennsylvania	X	X	X		X	X
39) Rhode Island	X	X				X
40) South Carolina					X	
41) South Dakota					X	
42) Tennessee	X	X				
43) Texas	X				X	
44) Utah						
45) Vermont					X	
46) Virginia	X	X			X	
47) Washington	X	X		X	X	X
48) West Virginia					X	
49) Wisconsin					X	
50) Wyoming					X	

Senator SIMON. Thank you very much, Mr. Schwartz. Ms. Patricia Clark, the director of Klanwatch for the Southern Poverty Law Center.

STATEMENT OF PATRICIA CLARK

Ms. CLARK. Chairman Simon, on behalf of the Southern Poverty Law Center's Klanwatch Project, we would like to thank you for the opportunity to testify before the Subcommittee on the Constitution in support of a hate crimes statistics act.

One of our major purposes at Klanwatch is to monitor hate violence around the country. And we also provide law enforcement agencies with a bimonthly report on the activities of organized white supremacists as well as the prevalence of hate crime in general.

For over 7 years, we have been collecting information from informal reports, newspaper clippings and from law enforcement around the country and we have noticed what appears to be a significant increase in crimes motivated by racial, ethnic, religious, or sexual orientation bias.

We can only say this appears to be the case, because there is no systematic data collection on these crimes. Until there is such a system in place, we will never be able to accurately gauge the prevalence or effectively analyze the causes of these crimes.

But there are a few facts that have emerged from the work we do which are beyond doubt.

The problem of bias crimes is not limited to the activities of organized white supremacists. In the past, the Southern Poverty Law Center has used litigation as an effective tool for combating violent organized racism.

Our lawsuit against the United Klans of America, for the murder of a 19-year-old Mobile, AL, youth, resulted in a $7 million judgment against the organization and caused a rapid decline of one of the major Klan groups in the country.

But we realize that even if we were to put every Klan group in the country out of business, there would still be widespread bigoted violence.

In fact, the catalog of incidents we published in our bimonthly intelligence report and from which the attached list is drawn, shows that bias, most bias crimes are committed by people who have no connection to organized white supremacist groups.

Crimes motivated by prejudice occur wherever there is cultural diversity. No region of our country is exempt, although for a long time people associated racist violence with the Klan nightriders of the South.

Today, it is true that some of the most serious problems with bias crimes exist in cities like New York, Boston, and Los Angeles. And police departments in these cities have recognized the severity of the problem by mandating special training and procedures for responding to and reporting bias crimes.

In 1987, Klanwatch published an informal survey on a particular category of bias crime, move-in violence, in which victims were targeted because they had moved into neighborhoods that were racially isolated.

We discovered from reports that move-in violence was a problem all over the country and the cities that reported the most violence were Chicago, Cleveland, and Philadelphia.

The range of potential hate crime victims in this country is as diverse as our population. Although blacks, Jews and gays are the most frequent victims of such crimes, we have seen many atrocious acts of violence motivated by prejudice against Asians, Indians, Hispanics, Hindus, and other minorities.

One of the most serious developments in recent years has been an increase in bigoted violence among youth. Problems on college campuses throughout the country have made headlines this year.

And the frightening rise in racist teenage gangs called skinheads has made us deeply concerned that the problem of hate violence is being passed on to a new generation.

There are several reasons we believe a hate crime statistics act is needed. It would bring more consistent law enforcement attention to the problem of hate crimes by providing a clear definition of crimes of prejudice and by requiring routine reporting.

Although some State and local agencies like Baltimore County in Maryland have worked to establish specific training and guidelines for dealing with bias crimes.

There are still many police who would have been conditioned to treat cross burnings or swastika paintings as pranks.

A routine reporting procedure would focus more serious attention on these crimes. It would facilitate information sharing among law enforcement agencies about the nature of hate crimes and sensitize them to the needs of victims.

It would provide the tools for tracking victimization rates for the purpose of developing more effective police and community responses to the problem.

And, finally, it would allow us to improve public education on the problem of bigoted violence by providing monitoring groups with reliable data on these crimes. Thank you very much.

[The prepared statement of Ms. Patricia Clark follows:]

Testimony of Pat Clark, Director of the Southern Poverty Law Center's Klanwatch Project, before the United States Senate Subcommittee on the Constitution's hearing on hate crimes statistics legislation.

June 21, 1988

On behalf of the Southern Poverty Law Center's Klanwatch Project, I would like to thank you for the opportunity to testify before the Subcommittee on the Constitution in support of a hate crimes statistics act.

One of our major purposes at Klanwatch is to monitor hate violence around the country; and to provide law enforcement agencies with a bi-monthly report on the activities of organized white supremacists as well as the prevalence of hate crime in general. For the past seven years we have been collecting newspaper clippings and informal reports from law enforcement around the country, and we have noticed what appears to be a significant increase in crimes motivated by racial, ethnic, religious, or sexual orientation bias. We can only say this appears to be the case because there is no systematic data collection on these crimes. Until there is such a system in place, we will never be able to accurately gauge the prevalence or analyze the causes of these crimes. But there are a few facts that have emerged from the work we do which are beyond doubt:

• The problem of bias crimes is not limited to the activities of organized white supremacists. In the past, The Southern Poverty Law Center has used litigation as an effective tool for combatting violent, organized racism. Our lawsuit against the United Klans of America for the murder of a 17-year-old Mobile, Ala., youth resulted in a $7-million judgement against the organization, and caused the rapid decline of one of the major Klan groups in the country. But we realize that even if we were to put every Klan group in the country out of business, there would still be widespread bigoted violence. In fact, the catalogue of incidents we publish in the *Intelligence Report*, and from which the attached list is drawn, shows that most bias crimes are committed by people who have no connection to organized white supremacist groups.

• Crimes motivated by prejudice occur wherever there is cultural diversity — no region of our country is exempt. Although for a long time, people associated racist violence with the Klan nightriders of the South, today it is true that some of the most serious problems with bias crimes exist in cities like New York, Boston, and Los Angeles — and police departments in these cities have recognized the severity of the problem by mandating special training and procedures for responding to and reporting bias crimes. In 1987, Klanwatch published an informal survey on a particular category of bias crimes — "move-in" violence — in which victims were targeted because they had moved into neighborhoods where they were a racial minority. We discovered from the reports we received that move-in violence was a problem all over the country, and the cities that reported the most violence were Chicago, Cleveland and Philadelphia.

• The range of potential hate crime victims in this country is as diverse as our population. Although blacks, Jews, and gays are the most frequent victims of such crimes, we have seen many atrocious acts of violence motivated by prejudice against Asians, Indians, Hispanics, Hindus and other minorities.

• One of the most serious developments in recent years has been an increase in bigoted violence among youth. Problems on college campuses throughout the country have made headlines this year. And the frightening rise in racist teen-age gangs called "Skinheads" has made us deeply concerned that the problem of hate violence is being passed on to a new generation.

There are several reasons we believe a hate crimes statistics act is needed:

• It would bring more consistent law enforcement attention to the problem of hate crimes, by providing a clear definition of crimes of prejudice and by requiring routine reporting. Although some state and local agencies, like Baltimore County and Maryland, have worked to establish specific training and guidelines for dealing with bias crimes, there are still many police who have been conditioned to treat cross burnings or swastika paintings as "pranks". A routine reporting procedure would focus more serious attention on these crimes.

• It would facilitate information-sharing among law enforcement agencies about the nature of hate crimes, and sensitize them to the needs of victims.

• It would provide the tools for tracking victimization rates for the purpose of developing more effective police and community responses to the problem.

• It would allow us to improve public education on the problem of bigoted violence, by providing monitoring groups with reliable data on these crimes.

Klanwatch Project
The Southern Poverty Law Center
P.O. Box 548
Montgomery, Alabama 36195-5101

Hate Crimes 1987-1988

The Klanwatch project of the Southern Poverty Law Center monitors white supremacist activities and hate violence across the country. Klanwatch publishes a newsletter which goes out to law enforcement officials bi-monthly and contains regular listings of hate violence incidents. Because there is no system for data collection, we rely largely on newspaper clippings and on informal reports. The following list contains examples of racially and ethnically motivated incidents which were documented by Klanwatch within the last twelve months (July 1987 to June 1988).

ALASKA:

Anchorage, Alaska (October, 1987) — Mayoral candidate Dave Walsh received a letter from an unnamed person claiming to be head of a 1,500 member local Klan organization, threatening to sabatoge the candidate's campaign if he continued to oppose a ballot measure that would remove Dr. Martin Luther King Jr.'s name from a performing arts center.

ALABAMA:

Opp, Ala. (Aug. 27, 1987) — A homemade KKK "doll" was left in the yard of a black family who had recently moved into a predominantly white neighborhood.

ARIZONA:

Winterhaven, Ariz. (Aug. 16, 1987) — A group of off-duty Marines, on temporary assignment from Cherry Point, N.C., allegedly attacked a black man, leaving him with injuries that required a four-week hospitalization. Goss said the Marines claimed to belong to "some sort of Aryan group," and attacked him because he was talking to several white friends.

CALIFORNIA:

Berkeley, Calif. (October, 1987) — Black students at the University of California held a press conference to denounce a series of racist incidents on campus, including: "KKK" graffiti written on a wall in a black woman's dorm room; the chasing of a black student by several white students shouting racial slurs during a football game; the defacement of African Student Association fliers with racial slurs.

Concord, Calif. (Jan. 29, 1988) — Battery and vandalism charges were filed against Jeff Northington, 19, for the harassment of a Chinese-American teen-ager and his family. Northington allegedly fought with Brent Taw, 17, and dented his automobile on Nov. 16, then spray-painted racist and threatening graffiti on the family's home. The graffiti included, "Gook, don't press charges," and "Die Taw."

Costa Mesa, Calif. (Aug. 1, 1987) — For the second time this year, vandals scrawled anti-Semitic and pro-Nazi graffiti on the walls of an elementary school.

Eureka, Calif. (Feb. 8 and Feb. 15, 1988) — Crosses were burned on two occasions on the front lawn of a Hmong refugee and his family.

Fullerton, Calif. (Jan. 7, 1988) — Three fires were set at a synagogue, which also received five telephoned bomb threats.

Hollywood, Calif. (Oct. 9, 1987) — Four Jewish temples were damaged by vandals who smashed windows and spray-painted graffiti, including the initials SXR, EVA, VR and CFP.

Lancaster, Calif. (Aug. 26, 1987) — Prosecutors announced they would file five misdemeanor criminal charges against Klansman Larry Mettert in connection with a June 12 incident in which

Why we need a Hate Crimes Statistics Bill:

- **to bring more consistent law enforcement attention to the problem of hate crimes, by providing a clear definition of crimes of prejudice and by requiring routine reporting.**
- **to facilitate information-sharing among law enforcement agencies about the nature of hate crimes, the needs of the victims, and the activities of white supremacist groups which may perpetrate or promote such crimes.**
- **to track victimization rates for the purpose of developing police and community responses to targeted groups.**
- **to improve public education on the problem of bigoted violence, by providing monitoring groups with reliable data on these crimes.**

Mettert allegedly threatened several youths. A misdemeanor cross burning charge was also filed against Mettert in connection with a June 13 cross burning at the home of an interracial family.

Los Angeles (Oct. 22, 1987) — Police arrested Michael Casey Martin, the 18-year-old leader of the "Reich Skins," and charged him with attempted burglary and threats, allegedly directed the actions of seven other gang members who were arrested on charges of vandalism and threats, according to police.

Los Angeles (Nov. 11, 1987) — Three Skinheads were arrested after swerving their car toward several Latinos and yelling white power slogans.

Los Angeles (Jan. 25, 1988) — National Socialist White People's Party member Joseph Dunlap was sentenced to 28 months in prison for spray-painting anti-Semitic slogans on a Glendale synagogue.

Los Angeles (June 2, 1988) — Six teen-agers who posted racist stickers on street lamps, stop signals and store windows in Montrose, Calif., were arrested on suspicion of terrorism and conspiracy. John Giambrone Jr., 18, was the only one named; the others are juveniles. A search of their vehicle uncovered white supremacist literature as well as stickers.

Newport Beach, Calif. (Aug. 12, 1987) — Vandals painted swastikas on two homes and two nearby cars.

Pleasanton, Calif. (August 8, 1987) — Clinton Sipes, on parole for armed robbery and carrying a concealed weapon, was jailed for allegedly wearing a Klan robe during a protest at the police station here, in violation of parole conditions which prohibit him from associating with the Klan. Sipes said the protest focusing on black crime was sponsored by the Aryan Youth Movement, not the Klan.

Petaluma, Calif. (Sept. 25 - 27, 1987) — An obscene message from someone claiming to be a Nazi was left on the telephone answering machine at the Petaluma Jewish Community Center. The caller threatened to castrate "all the Jews."

Redwood City, Calif. (Nov. 24, 1987) — An unnamed 15-year-old girl who claimed to be a member of the White Aryan Resistance was arrested and charged with felony malicious mischief in connection with the Nov. 12 vandalism at a Redwood City temple. She allegedly spray-painted swastikas and hate slogans on the synagogue walls, and spray-painted racist slogans at an elementary school.

Sacramento, Calif. (Oct. 4, 1987) — The home of an interracial family was burned to the ground by an arsonists who spray-painted racial slurs and a swastika on a storage shed.

Sacramento, Calif. (August 9, 1987) — Greg Withrow, the former White Student Union who was beaten after renouncing racism, was again attacked by assailants who nailed his hands to a board tied across his shoulders.

St. Helen, Calif. (Sept. 2, 1987) — A fake bomb was planted in a Safeway store with a KKK note attached. The store was evacuated but the device was not found to contain explosives.

San Diego (February, 1988) — Vandals defaced three synagogues with swastikas and threats.

San Jose, Calif. (July, 1987) — A 54-year-old black woman was trying to cross a bridge when she was accosted by four Skinheads who threatened to lynch her. One of them, Kenneth Lamar Allen, 20, was charged with attempted robbery and false imprisonment. Allen said he was affiliated with the White Aryan Resistance.

Saugus, Calif. (Feb. 6, 1988) — A cross was burned at the home of a white couple with an adopted black son.

Ventura, Calif. (March 18, 1988) — The FBI is investigating a cross burning at the home of a white family which employs a Latino live-in baby-sitter. The baby-sitter received a threatening letter a week before the cross burning which contained a racist cartoon and was signed by "the neighborhood welcoming committee." The neighborhood is interracial.

COLORADO:

Aurora, Colo. (Oct. 22, 1987) — Crosses were burned in front of two homes occupied by black families in predominantly white neighborhoods.

Denver, Colo. (Oct. 29, 1987) — Police found neo-Nazi paraphernalia and pictures of Adolf Hitler in an apartment shared by two people who were arrested for shooting BB pellets at two blacks.

Denver, Colo. (Oct. 5-6, 1987) — Vandals rearranged the decorative stones in front of the Urban League office to read "KKK." The vandals also designed a cross in the rock bed in front of the office.

CONNECTICUT:

West Haven, Conn. (May 9, 1988) — Swastikas and anti-Semitic graffiti were found at the site of a fire which gutted part of a synagogue.

DELAWARE:

Georgetown, Del. (May 2, 1988) — A fire destroyed the home of a black family. References to the Ku Klux Klan were scrawled in the burned home.

FLORIDA:

Winter Haven, Fla. (August, 1987) — Five people were arrested and charged with arson, criminal mischief, cross burning, burglary and petty theft in connection with cross burnings August 10 and August 18 at the homes of blacks living in predominately white neighborhoods.

Jacksonville, Fla. (July, 1987) — Southern Bell officials are investigating the harassment of several black workers who found threatening notes with "KKK" written on them left in their chairs.

Cape Coral, Fla. (July, 1987) — During a two-week period, members of Temple Beth El received a threatening phone call from a person claiming to represent the American Nazi party, had a German-language anti-Semitic poster affixed to their synagogue wall and received an identical poster in the mail.

Pinellas Park, Fla. (Aug. 19, 1987) — The homes of two black families in a mostly-white neighborhood were vandalized.

Lake City, Fla. (Aug. 29, 1987) — A black woman reported she received a note in her mailbox, signed "KKK," threatening to burn her house.

Jacksonville, Fla. (1987, date unknown) — About 25 to 30 Skinheads in combat boots and swastika T-shirts marched down a street shouting KKK slogans and picking fights with bystanders. Police broke up most of the fighting, but arrested six marchers and two bystanders on charges of breach of peace and resisting arrest without violence.

St. Petersburg, Fla. (1987, date unknown) — Skinheads disrupted punk rock concerts in St. Petersburg and Clearwater, Fla.

Altamonte Springs, Fla. (Sept. 7, 1987) — The home of Richard Anthony Mitchell was vandalized, with "KKK" written in black marker on a screen door and on concrete in front of the

door.

Beverly Hills, Fla. (Dec. 22, 1987) — Vandals spray-painted swastikas and anti-Semitic sayings on the walls of Congregation Beth Shalom, Citrus County's only Jewish Temple.

Miami (Feb. 28, 1988) — Vandals allegedly broke windows and spray-painted ethnic and religious slurs on a synagogue, causing an estimated $10,000 damages. Four boys, ages 16 and 17, were arrested for the crime.

Miami, Fla. (May 21-22, 1988) — Vandals spray-painted swastikas and anti-Semitic slogans on a south Florida synagogue and high school during the weekend.

Tampa, Fla. (March 5, 1988) — Police arrested two Skinheads for the stabbing death of a black man outside the Tampa Museum of Art.

GEORGIA:

Atlanta, Ga. (July, 1987) — A interracial couple plans to move after three days of telephone threats, rock-throwing and an attempted firebombing at their home in the Riverdale subdivision south of Atlanta.

Douglasville, Ga. (November, 1987) — A cross was burned at the home of a black national guardsman who filed a racial harassment complaint against the Georgia National Guard.

ILLINOIS:

Chicago, Ill. (November 9, 1987) — A Skinhead member of SS-Action, William G. Leinberger, 22, was arrested in connection with the vandalism of three Chicago synagogues and four Jewish-owned businesses on Nov. 9, the 49th anniversary of Kristalnacht.

Chicago (Feb. 23, 1988) — A white man who pleaded guilty to aggravated assault and ethnic intimidation for the harassment of two blacks in a predominantly white neighborhood was sentenced to perform 200 hours of community service for the NAACP. Stuart Nudleman was among a group of whites who brandished baseball bats, threw bottles and shouted racial slurs as they chased two blacks from a transit stop in Gage Park on Chicago's Southwest Side on Aug. 16.

Chicago (February, 1988) — Nine Jewish-owned businesses which were vandalized on the anniversary of Kristallnacht in November were again the targets of harassment by white supremacists. Each received a National Socialist Vanguard newsletter containing an article about the vandalism along with other anti-Semitic rhetoric.

INDIANA:

Gas City, Ind. (Aug. 23, 1987) — A cross was burned outside a bar where a black couple was sitting. No arrests were made.

Indianapolis, Ind. (Oct. 17, 1987) — A black North American Roofing employee said he was assaulted by co-workers who claimed to be KKK members.

Lincoln City, Ind. (Jan. 26, 1988) — A predominantly black high school basketball team arrived at a rival team's campus to find a cross burning near the school.

Monroe County, Ind. (March 6, 1988) — A cross was burned and a racist, threatening phone call was received at the house of a Benton Township woman.

IOWA:

Des Moines, Iowa (September, 1987) — A cross was burned outside the home of a black man living in a largely white neighborhood.

KENTUCKY:

Lexington, Ky. (Aug. 26, 1987) — A black maintenance worker is suing Trane Co. alleging that his white foreman made racial slurs and that he and other black employees have had KKK hoods, cards and brochures left at their work stations. Edward D. Prentice, 42, is asking for $2.25 million in damages.

Louisville, Ky. (May 5, 1988) — A black man was shot and killed in Jefferson County by a group of white males who yelled racial slurs at him from their vehicle. They allegedly shot the man after he threw a bottle at their car.

LOUISIANA:

Bogalusa, La. (September, 1987) — Black city councilman Paul Kates received a phone call from a person claiming to be a Klan member, threatening to blow up or knock down a proposed mural honoring Martin Luther King Jr.

MARYLAND:

Princess Anne, Md. (September, 1987) — A black family found the remnants of a charred cross on their front lawn. It was the third cross burning in the last 18 months on Maryland's Eastern Shore.

Federick, Md. (Sept. 12, 1987) — Someone took documents out of a NAACP booth at a city Peace Fair and replaced them with a KKK card.

North Laurel Park, Md. (Feb. 29, 1988) — An elderly black woman found a cross burning on a vacant lot next to her home in an integrated community.

Rising Sun, Md. (April 17, 1988) — A cross was burned near the home of a white woman living with a black man in what fire officials said was the third racially motivated incident directed at the couple.

Baltimore (March 25, 1988) — A 17-year-old boy was arrested for burning a cross at the new home of a black woman in a predominantly white neighborhood.

MASSACHUSETTS:

Lowell, Mass. (September, 1987) — A 13-year-old Cambodian boy drowned after being pushed into a canal by a white boy.

Charlestown, Mass. (Sept. 29, 1987) — A judicial inquiry was ordered into the failure of a clerk-magistrate to issue an arrest warrant against a man who punched two black children and called them "niggers."

Boston, Mass. (Sept. 22, 1987) — Boston Jewish Times publisher Sten Lukin received a threatening letter claiming to be from the American Nazi Party. The letter was an invitation to for Lukin to meet "the publisher of our paper, K. Strauss, on the Boston Common...at 6:00 p.m. this Friday night. He will break every bone in your body." The letter was unsigned.

Boston (Feb. 1, 1988) — Swastikas were spray-painted on a Temple and a toy shop.

Boston (Jan. 26, 1988) — Swastikas and "KKK" were drawn on the homes of a Jewish family and two black families living in the Village of Brookline, an integrated housing complex.

Wellesley, Mass. (December, 1987) — A white Wellesley family was ordered to stop harassing a Filipino family living next door. Documents filed by the state Attorney General's office allege Mary Rutledge and two of her sons threw bags of human feces on Felizardo Villarino's lawn, threatened with death, doused his laundry with gasoline, and threw a rock at him.

MICHIGAN:

Redford, Mich. (Aug. 9, 1987) — Three local residents reportedly admitted to burning a cross near a group of picknickers from a black church at Lola Valley Park in Wayne County.

Redford, Mich. (July 20, 1987) — The home of an interracial couple was vandalized. "KKK" and "nigger" were spray painted on the garage door and on the front of the house where Stanley and Patricia Neal have lived for seven months.

Novi, Mich. (Jan. 31, 1988) — Two unidentified white men attacked a white woman who was riding with a black man, and shouted racial slurs at the black man while they were stopped at a gas station.

Detroit (Feb. 3, 1988) — Swastikas were painted on a synagogue and a Hebrew School bus, with the word "Skins" included in the synagogue graffiti.

MINNESOTA:

Minneapolis (Feb. 9, 1988) — Macalester College's student body president, an American Indian, received a threatening letter filled with racial slurs after she wrote an article for the student newspaper denouncing racism on campus.

MISSISSIPPI:

Marshall County, Miss. (August 8, 1987) — A cross was burned at the home of black sheriff Bobby Joe Adkins.

Long Beach, Miss. (August 15, 1987) — A burning cross was found on the beach across the street from the site of a regional NAACP youth conference.

Louisville, Miss. (Nov. 4, 1987) — The NAACP has asked the FBI to investigate the attack on a black teenager by at least four white youths who carved two K's on the boy's back.

MONTANA:

Butte, Mont. (May, 1988) — Swastikas were cut into a green of the Highland View Golf Course sometime last winter or early this spring.

NEVADA:

Reno, Nev. (April 15, 1988) — Vandals slashed tires and scratched racial slurs into cars on the used-car lot owned by a black man. The lot had been the site of racist graffiti previously.

Reno, Nev. (April, 1988) — Two teen-agers identified as Skinheads attacked a man in a mall which is alleged to be a Skinhead hangout.

Reno, Nev. (March 7, 1988) — Unidentified Skinheads sprayed swastikas on a car.

Las Vegas, Nev. (Feb. 9, 1988) — Two Skinheads who were also involved in Satanic worship were arrested for the Feb. 9 murder of a convenience store clerk.

NEW JERSEY:

Manalapan, N.J. (Aug. 7, 1987) — A man who pled guilty to phoning bomb threats to three area synagogues was sentenced to three years' probation and fined $1,000. Peter J. Hamilton, 20, and Jerry James Ferrara, 20, said they made the threats purporting to be from the American Nazi Party.

Jersey City, N.J. (Oct. 7, 1987) — Members of the city's Indian community disrupted a mayoral news conference to protest a series of attacks on members of the Asian Indian community. In recent weeks, the protesters said, a man was beaten to death in Hoboken and another was beaten into a coma. The most recent incident was the Oct. 4 vandalism at the home of Kanti Patel, president of the Bharat Cultural Society of New Jersey. Four teenagers threw eggs and pieces of metal and shouted racial epithets, Patel said. Following the Oct. 7 protests, New Jersey State Police and the U.S. Department of Justice assigned community relations experts to help ease tensions in the community.

Newton, N.J. (Feb. 8, 1988) — A black woman was allegedly attacked by two white men who smeared her with their excrement, cropped her hair, scrawled markings on her face and insulted her with racial slurs.

West Windsor, N.J. (Feb. 20, 1988) — The letters "KKK" were scrawled on cars belonging to two black families in racially mixed neighborhoods.

New Brunswick, N.J. (Jan. 30, 1988) — Vandals wrote anti-Semitic epithets on a wall of the B'nai B'rith Hillel Foundation at Rutgers University.

West Windsor, N.J. (March 4-5, 1988) — Racial slurs were painted on cars and garage doors belonging to Asian families. The incidents occurred less than two weeks after the cars of black families were sprayed with the letters "KKK."

NEW YORK:

Queens, N.Y. (Sept. 11, 1987) — Robert Williams, a 16-year-old black Brooklyn resident, was beaten with baseball bats and sticks by a gang of five white youths.

New York, N.Y. (Dec. 25, 1987) — Police arrested Douglas Malliband, 19, of Brooklyn and charged him with second-degree assault, violation of the federal civil rights laws and criminal possession of a dangerous instrument, in connection with an alleged beating of two black brothers by a gang of white men.

Peekskill, N.Y. (November, 1987) — A black man was chased by three white men carrying bats and pipes. He escaped injury when he was picked up by a passing motorist, and three arrests have been made in the case.

Ithaca, N.Y. (December, 1987) — Racial epithets and "KKK" were spray-painted on the home of a white mother and her black children on two separate occasions.

New York (Feb. 29, 1988) — Two white New York City police officers were indicted on charges of assaulting two black men in a racially motivated street fight in October 1986. The officers, who were off duty at the time, allegedly followed the men down a street after a dispute, shouted racial slurs at them and then assaulted them.

New York City (March 3, 1988) — Three white men beat a black female prostitute with a baseball bat and then randomly attacked black people waiting for a bus, shouting racial slurs, and hitting them with the bat and a large tree limb.

Pine Bush, N.Y. (April 18, 1988) — An interracial couple's house and car, located in a predominantly white neighborhood, were struck by several rounds of gunfire.

Mahopac, N.Y. (Nov. 7, 1987) — The teen-age son of a Russian Orthodox priest and a 12-year-old companion were arrested for spray-painting Nazi symbols on the only synagogue in Mahopac. Andrei K. Federoff, 16, dressed in a makeshift Nazi uniform, told police he was responsible for several attacks on the synagogue in the last three months.

Brooklyn, N. Y. (Sept. 2, 1987) — Alfonso Petti, 17, was arrested for his participation in a white gang attack on three black youths. Police say the attack may have grown out of racial conflicts at an area high school.

NORTH CAROLINA:

Cool Springs, N.C. (July 31, 1987) — The new home of a black couple in a white neighborhood was burned to the ground by arsonists. It was the second fire at the house, which was purchased on July 25.

Winston-Salem, N.C. (August, 1987) — Terry Parks, a black flight attendant living in a racially mixed neighborhood

found threatening graffiti painted on her back porch and basement doors and windows. Vandals also set fire to the basement door.

Chapel Hill, N.C. (Feb., 1987) — University officials are investigating racial slurs sent to a black student in the masters of business administration program, apparently by a fellow graduate business student.

Iredell County, N.C. (Oct. 27, 1987) — A cross was burned in front of the home of a 14-year-old white boy who had danced with a black girl at a booster club dance.

Chapel Hill, N.C. (Dec. 4, 1987) — "KKK" was carved on the dormitory room door of two black women students.

Winston Salem, N.C. (April 29, 1988) — Four black youths were allegedly chased on their way to school by three men wearing white sheets and hoods who shouted racial slurs and brandished a gun.

Lenoir, N. C. (April, 1988) — NAACP local president, Rev. Venoy Pearson, found a Klan calling card that read "Be Careful the Klan is Watching you" stuck to his campaign poster for Jessie Jackson.

OHIO:

Toledo, Ohio (Oct. 31, 1987) — Rev. Jerry Williams, a black minister living in a predominantly white neighborhood, found "KKK" spray-painted on his driveway and his fence over the weekend.

Toledo, Oh. (Dec. 13, 1987) — A black woman received a telephone threat from a man who claimed to be a Klan member. Two days earlier, a church and two houses were spray painted with the letters KKK.

Akron, Oh. (Jan. 18, 1988) — The letters "KKK" were tarred on the garage door of a black family living in a predominantly white neighborhood.

Cincinnati (Feb. 10, 1988) — A telephone death threat kept University of Cincinnati basketball coach Tony Yates from coaching a game in St. Louis. Yates, who remained in his hotel room under security during the game, said the threats included racial slurs.

Cincinnati (March 11, 1988) — Two Skinheads, John Pender, 22, and a juvenile, were arrested on charges of beating a 22-year-old white University of Cincinnati student in the parking lot of a Coryville restaurant. The two were among a group of five white youths dressed in black T-shirts with swastikas who allegedly threw the victim to the ground.

OKLAHOMA:

Oklahoma City (May 4, 1988) — Two Skinheads pleaded no contest to assault charges after a judge ruled they cannot be prosecuted as adults. Chad Eugene Miller, 16, and Jeff Morris Hynson, 16, were accused in the March 17 attack on Bruce Taylor, a black man who was with his white girlfriend. Taylor said they told him, "Nigger, you know race mixing don't work." Mark Edward Walker, 20, of Oklahoma City, was earlier found guilty of the attack.

Claremore, Ok. (April 10, 1988) — The FBI is investigating a racially-motivated arson at the home of a black family. "Nigger Get ..." wes spray-painted on one wall.

Oklahoma City, Ok. (Jan. 22, 1988) — Police arrested three Skinheads who allegedly attacked a black man.

Oklahoma City, Ok. (December, 1987) — State and federal authorities are investigating the possible involvement of a local Skinhead gang in the vandalism of a Jewish synagogue. "OKC Skins" was painted on the temple along with swastikas and anti-Semitic slogans.

PORTLAND:

Portland, Ore. (Nov. 11, 1987) — Skinheads accosted a black woman in her car, spitting at her, shouting racial epithets and throwing a chain through her car window. Glass fragments lodged her eye requiring emergency treatment.

Portland, Ore. (October 1986) — More than 20 Skinheads carrying baseball bats, axes, pipes and knives marched from downtown to a teen nightclub. It took nearly 40 uniformed police to break up the procession.

PENNSYLVANIA:

York County, Pa. (Oct. 14, 1987) — The former head of a local NAACP chapter found a note on his door saying "The KKK was here." Rev. Ronald Taliaferro, a Baptist minister, said the incident may have been connected to the recent Invisible Empire rally in Ephrata.

Easton, Pa. (Sept. 12, 1987) — Vandals spray-painted anti-Semitic graffiti on a synagogue three weeks after an incident in which a fire was set outside the synagogue's front doors.

Easton, Pa. (Feb. 28, 1988) — The doors to a synagogue were set on fire, six months after two incidents of anti-Semitic vandalism.

Pittsburh, Pa. (June 6, 1988) — Federal agents arrested Klansman Raymond Hersick, 33, for the July 1987 arson of an all-black church.

Philadelphia (November,1987) — Three juveniles and 18-year-old Ronald Rink were arrested for the attack at the home of a black family in a mostly white neighborhood. Warrants were issued for three more people who were among the 15 white youths who allegedly hit a black man with boards and shouted racial slurs at him and his family.

RHODE ISLAND:

Cranston, R.I. (June 1, 1988) — Vandals slashed the tires on two cars, and spray-painted the cars, house and sidewalk of a black family who had moved into a mostly white neighborhood in April.

SOUTH CAROLINA:

Pawley's Island, S.C. (Nov. 27, 1987) — "KKK Rules" was spray-painted on a monument to Dr. Martin Luther King Jr.

VIRGINIA:

Hurt, Va. (Oct. 29, 1987) — A white minister who invited a black preacher to his church received threats from people claiming to be Klan members.

VERMONT:

Burlington, Vt. (Sept. 24, 1987) — Local police say they do not know whether a cross burning at an elementary school field and a series of three bombings are related, or if there were racial motives involved.

Putney, Vt. (April 15, 1988) — The home of a black man, who was the target of a cross burning last October, was destroyed by fire.

WASHINGTON:

Spokane, Wash. (May, 1988) — Fire officials are investigating whether there is a link between four recent arson cases in which fires destroyed cars owned by racially mixed couples. Investigators have no suspects in the fires which occurred between November 1 and March 18 within a one-mile radius.

Suquamish, Wash. (May 11, 1988) — A 7-foot cross was set on fire on the lawn of a black family's rural home.

Senator SIMON. Thank you very much. Ms. Joan Weiss, the executive director of the National Institute Against Prejudice and Violence.

STATEMENT OF JOAN WEISS

Ms. WEISS. Mr. Chairman and Senator Metzenbaum, I appreciate Pat Clark's testimony, because she said most of what I need to say, which will enable me to say in summary form a little bit about the problem and a few of the reasons we think the hate crime statistics act should be passed.

The National Institute Against Prejudice and Violence is a national nonprofit center which has a clearinghouse of information, conducts research, provides assistance to communities, and conducts training, seminars, and educational programs, all related to violence motivated by prejudice.

One of the issues that I would like to address is whether or not these crimes are rising, whether there is an increase, because one of the reasons often given for collecting data is to determine whether or not there is an increase.

I have begun to respond a little differently than I did a few years ago. On the one hand, those of us who monitor the problem—and there are only a handful of national organizations in the country that do that—are convinced, for the most part, that over the last 8 or 10 years this has become a more serious problem.

But I think that's immaterial. The fact of the matter is that all of us concerned with this issue, who have been watching it, know that thousands of incidents occur each year around the country.

Whether the incidents have increased a little bit or decreased a little bit or stayed the same seems to us not to be the issue. If the problem is persistent and pervasive and serious, as it is, then whether or not it's increasing should not be the determining factor as to whether or not we respond to it.

We don't need this legislation to tell us there's a problem. Those of us who monitor the problem know that it's an issue that needs to be addressed, but do not have the resources to turn it around.

Only public officials can do that and the problem in this country is that public officials, for the most part—police departments, county executives, legislators, mayors, Governors—do not believe this is a serious problem.

The citizens of this country have a great deal of denial going on. And the problem, therefore, cannot be addressed.

At this point, there is sufficient evidence—by the Anti-Defamation League, the National Gay and Lesbian Task Force, the Southern Poverty Law Center, the Center for Democratic Renewal, the Arab American Anti-Discrimination Committee, the National Institute Against Prejudice and Violence—that thousands of incidents have occurred throughout the country.

We're talking about verbal harassment, threats, swastika paintings, racist graffiti, vandalism, cross burnings, arson, assault and murder. I won't read a litany of incidents. Suffice it to say that I could sit here for the next month and not finish reading incidents.

Also, I want to reiterate something that Pat Clark said and that is that the hate groups in this country, while they are a serious

problem, and while they give credibility to these acts, and condone an antiminority sentiment, most of the crimes committed in this country of this nature are committed by our neighbors, and our neighbors' children.

This is a pervasive problem which is not something that we can address by just looking at hate groups. Doing so diverts us from the attention that the problem deserves.

Campus violence has been increasing. The institute has identified over 150 different institutions of higher learning where incidents occurred between 1986 and May 1988.

In terms of the reasons for the hate crime statistics act, let me emphasize that we think the most important reason is that because—in spite of the overwhelming evidence—policymakers and police departments do not take this problem seriously, therefore resources which are needed for programs of prevention and response are not allocated.

In addition, the hate crime statistics act would provide us with the information we need to educate children and adults, to deal with juvenile offenders, to conduct training for law enforcement officials, to provide victim assistance and to do research which will lead to more effective solutions.

The Justice Department opposes this act because of its cost and because of the "subjective nature"—I put that in quotes—of the crimes. I will defer to Col. Leonard Supenski of the Baltimore County Police Department who will address the specific issues involved in data collection.

But I will tell you that there is a handful of police departments in this country which have collected data on these crimes on a long-term basis and they have found that the advantages far outweigh the disadvantages. The data enable police to monitor tension-filled situations and to intervene before they erupt into violence. Also, when police respond effectively to hate crimes, it improves police-community relations.

I think that one of the most significant reasons for passing this act is that finally, and for the first time, it would send a message to the citizens of this country that the Congress of the United States does not condone these acts. Thank you.

[The prepared statement of Ms. Joan Weiss follows:]

NATIONAL INSTITUTE AGAINST PREJUDICE & VIOLENCE

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TESTIMONY BEFORE THE
SUBCOMMITTEE ON THE CONSTITUTION
SENATE JUDICIARY COMMITTEE
BY
JOAN C. WEISS, EXECUTIVE DIRECTOR
NATIONAL INSTITUTE AGAINST PREJUDICE AND VIOLENCE
ON
S.702, S.797, and S.2000
"HATE CRIME STATISTICS ACT"

JUNE 21, 1988

Good afternoon Mr. Chairman and members of the Committee. I am Joan Weiss, Executive Director of the National Institute Against Prejudice and Violence. I am pleased to have this opportunity to testify on Senate bills 702, 797, and 2000 which would require the federal government to collect data on hate crimes.

Over the last eight years, many of us have become aware of the increase in reported crimes based on prejudice. One factor which has made adequately addressing the problem difficult is insufficient knowledge about the number and nature of hate acts which occur. Being able to assess accurately the extent and nature of these incidents, as well as where they occur and to whom, is an essential component of any national effort which is to have an impact on the problem.

Currently, most police departments record swastika paintings as acts of vandalism and cross burnings as arson. Assaults directed against racial and religious minorities and gays and lesbians, committed solely because of who they are, are recorded simply as assaults, without regard for the underlying motivation of the crime. Neither the true nature of the act, nor its impact on the victim, is acknowledged. As a result, these acts and their victims do not receive the attention they deserve.

Although no one knows exactly how many crimes motivated by bigotry based on race, religion,

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ethnicity or sexual orientation are committed, we know from Institute research that the problem is persistent, pervasive, and serious. Thousands of ethnoviolent incidents occur around the country each year. In addition to the Institute's files, we can point to a number of sources. In Maryland, one of only six states in the country with data collection legislation, between 350 and 500 incidents based on race, religion and ethnicity were reported to the Maryland State Human Relations Commission each year from 1981 through 1986. We know, however, that the actual figure is much higher. The other states with data collection legislation--Connecticut, Idaho, Maine, Minnesota, Oklahoma, and Pennsylvania--have not had their laws in effect long enough to have statewide data available. However, the police in New York City and Boston both have collected data for approximately eight years. The New York City Police documented between 172 and 286 incidents each year from 1981 until 1986. Then in 1987 they documented 453 incidents. In Boston, the police department recorded over 2,700 incidents from 1978 through 1987. Other sources of data include:

- the Anti-Defamation League of B'nai B'rith, which recorded 1,018 anti-Semitic incidents in 1987, a significant increase over 1986;

- the National Gay & Lesbian Task Force, which recorded over 7,000 acts of anti-gay and lesbian violence in 1987; and

- the Center for Democratic Renewal, which recently published an accounting of almost 3,000 incidents in a seven-year period.

On a more local basis, other organizations have collected information and have consistently recorded dozens of incidents in their communities each year. Examples include the Montgomery County, Maryland Human Relations Commission; the Los Angeles County, California Human Relations Commission; and the North Carolinians Against Racism and Religious Violence.

The kinds of incidents we are talking about affect many different victim groups, occur in all parts of the country, and include any crime you can imagine: verbal harassment, threats, swastika paintings, racist graffiti, acts of vandalism, cross burnings, arson, assault, and murder. Following are some examples from the Institute files over the last year:

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Elmont, NY
Police arrested a gang of three youths which preyed on Asian Indians and Blacks on Long Island. The gang sprayed a chemical fire extinguisher into the eyes of their victims, threw eggs and firecrackers into homes, and vandalized cars.

Farmington, MI
Bricks were thrown through the garage window of an interracial couple and dozens of racial slurs, including "Nigger," "KKK," a swastika and the word "Dead" were painted in black and red on their white home.

Rockville, MD
An 8-foot swastika was burned into the lawn of a Jewish family who had lost many relatives in concentration camps during the Holocaust.

Philadelphia, PA
Two men beat and stabbed to death a man they met in a bar solely because they believed he was a homosexual.

Baltimore, MD
Two juveniles, 17 and 16, were charged with burning a cross near the home of a Black family one week after they moved into a predominately white neighborhood. During that week the family was verbally harassed and threatened and had their tires slashed.

Los Angeles, CA
Three members of a neo-Nazi Skinhead group swerved their car in an attempt to hit several Latinos in an intersection and sprayed fire extinguishers while yelling white power slogans.

San Francisco, CA
A Black and an Asian firefighter at the San Francisco Fire Department found a black wooden swastika in their office on January 4, 1988.

In addition, the hate groups are alive and well. Though small in numbers, they have been responsible for a spate of violent crimes in recent years. Even more frightening are the youth groups which have sprung up. The Aryan Youth Movement and various Skinhead factions have been recruiting disenfranchised teens and young adults, capturing their loyalty, playing on their fears, and fueling their anger until it erupts into violence, sometimes

murder.

The Institute has a multifaceted approach to the problem of violence motivated by bigotry: We maintain a clearinghouse of information about incidents as well as programs to prevent and respond to them. We publish a newsletter, educational materials, and reports of our research. We have just published a supplement to our manual federal and state civil and criminal remedies, as well as a report on bigotry and cable TV.

We provide consultation and technical assistance on preventing and handling incidents and responding to activities of the Klan, neo-Nazis, and other hate groups. We have been asked for advice and assistance by the U.S. Department of Housing and Urban Development, the U.S. Department of Justice, state and local human relations commissions, and community groups.

Our educational efforts include convening national and regional conferences, conducting trainings and seminars, assisting educators in developing programs and curricular materials, and providing information to media. On March 3-4, 1988 we convened the "Northeast Regional Conference on Prejudice and Violence" in New York City. Co-sponsored by the City and State of New York, the conference drew 250 government officials, police, human rights workers, and community leaders from 15 states.

Currently we are doing a series of four trainings of community leaders (in New York State; Dover, Delaware; Philadelphia; and Baltimore) to deal with intergroup conflict in their communities. We also monitor federal legislation and work with state legislators to enact appropriate civil and criminal remedies.

We conduct original research on the causes and nature of incidents, their impact on victims, and the effectiveness of different methods of response. We are currently conducting research on ethnoviolence in the workplace and are about to embark on the first major national survey of victimization in the population.

Institute research indicates that as many as one in five minority persons is the victim of an act motivated by bigotry in any given year. We also know from our study of victims in seven states--California, Maryland, New York, North Carolina, Ohio, Pennsylvania, and Virginia--that 87% of victims experience a series of attacks, not an isolated act.

Campus violence has received considerable attention in the last year. In our study of campus violence on the University of

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Maryland Baltimore County campus, we learned that one out of five minority students had been the victim of some form of harassment during the year. Based on accounts in the print media alone, the Institute recorded the occurrence of ethnoviolence at 150 different institutions of higher education between September 1986 and May 1988.

Incidents occur throughout the country in communities, at schools, in the workplace. The impact of ethnoviolence is traumatic and long-lasting. Victims experience fear and isolation, never knowing what future act awaits them. Their sense of personal violation is similar to that of the rape victim. They lose sleep. They fear for their lives and those of their children. Some change jobs. Some victims move away from communities, looking for a safe place. They cannot live in peace.

The positive note in this disturbing picture of violence is the appearance of a variety of responses in communities around the country. Over the last few years, people of good will and responsible state and local government officials have formed coalitions; agencies have established task forces; states have passed laws which proscribe activities of hate groups and increase penalties for hate crimes. The Institute has increasingly been asked to train community leaders, police officers, and human rights officials to identify, monitor and respond to ethnoviolence. Victim assistance programs have been established. And here and there a creative criminal justice system is utilizing alternative programs in the adjudication of cases committed by juveniles.

Slower in coming are the programs of prevention, because we don't know enough about intervening in the direction of an individual's life to avert a course of violence, let alone violence motivated by prejudice. While we need more research in the area--and we are embarking on some studies which we hope will shed some light on this--we do know that intergroup relations and cross cultural issues need to be addressed from the beginning of kindergarten through high school.

We also know that until the economic disparities among different groups in our society are rectified, along with the provision of basic needs such as housing and unemployment, it will be impossible for us to deal effectively with intergroup tension. These needs create a barrier to educating youth, to dispelling the ignorance and fear and anger which erupt into violence.

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Much needs to be done, beginning with convincing public officials and citizens in general that the problem of ethnoviolence is not an isolated phenomenon. In order to do that, we need accurate national data. Unfortunately, in spite of overwhelming evidence--the data and information currently collected by the Institute and other organizations--most policy makers and police departments do not take the problem of ethnoviolence seriously. Therefore, resources which are needed for programs to prevent and respond to hate acts are not allocated.

The Hate Crime Statistics Act would provide federal and state government officials with the information they need to allocate resources to educate children and adults, to deal with juvenile offenders, to conduct training for law enforcement officials, to provide victim assistance, and to do research which will lead to effective solutions. Second, the availability of accurate data nationwide would enable police to monitor trends in intergroup tension and enable them to intervene before situations erupt into violence. Being responsive to this issue would also help police improve their relations with communities. Victims need to know that others understand and care about what happened to them.

We support the inclusion of violence motivated by the victim's sexual orientation as well as race, religion and ethnicity in the Hate Crime Statistics Act, as provided in Senate bill 2000, since such crimes are also motivated by prejudice and have increased in number and severity in recent years.

Violence motivated by prejudice wreaks [illegible] with the lives of victims and undermines the foundations [illegible] free society. It is a problem which requires attention and a commitment of resources. We believe that the collection of data on hate crimes is an important step in addressing the problem. Passage of a Hate Crimes Statistics Act would send a clear message to the citizens of this country that violence motivated by prejudice will not be condoned.

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Senator SIMON. Just one brief question for all of you, that you addressed, Ms. Weiss. All of you in one way or another are collecting data. Is there validity to the Justice Department saying, "This is just too expensive for whatever merit there may be in this"?

Ms. WEISS. Let me just say that the reason we want the statistics collected by the Justice Department or by the Federal Government is because the data that those of us who are here collect come from news clippings and informal reports and the few, I mean few, police departments in this country which are collecting data.

So, we can't assess the cost based on our own experience. What we can do is look to the police departments that are collecting data. And what they tell us is that while there is some cost involved, anything worth doing is not going to be cheap to do.

But the fact of the matter is that it is not something that is impossible or extremely costly. The police departments collect data every time they go out and file a report. What it means is having a form that has a place to identify the perceived motivation of the crime and enough information so that it can be investigated and the issue of prejudice can be ascertained.

I would like to add to that, that the Justice Department has also said in the past that these determinations are arbitrary, that they're too subjective. And, therefore, the data will be compromised. I will say from the beginning that there are going to be cases that are judgment calls. There's no question that there are occasional cases that are judgment calls. But there are blatant cases that are not judgment calls. We need to know about them.

And in addition I think we need to err on the side of investigating on the basis of the perception of the victim. Because even if the motivation of the crime was not prejudice, if the victim and the community perceive that that was the basis, then the effects will be the same and the police need to know that so they can intervene where there is tension and conflict before that escalates.

Mr. SCHWARTZ. Senator, I would also reiterate something that Congresswoman Kennelly said earlier that it may be simply a matter of checking a box on a form—as Ms. Weiss points out as well.

Also, as I noted, the costs may be minimal, there may be a certain amount of cost involved, but there is a social benefit to it, not only in terms of gauging the dimensions of an important problem, but in allowing our citizens in communities to feel that there is a very serious attitude being taken by their officials, their representatives on a matter that concerns them.

Certainly, when it happens to a community or an individual because of these ethnic related reasons, there's a sense of violation, isolation, fear and that should be addressed too.

And, certainly, the costs involved which we feel are minimal are more than made up for in the social benefit in that sense.

Senator METZENBAUM. Ms. Weiss or Mr. Schwartz, what about the fact that the Justice Department claims you can't determine which are racially motivated or religiously motivated, ethnically motivated. You collect that kind of data now. How do you—what about their claim along that line?

Mr. SCHWARTZ. Well, Senator, I know that Ms. Weiss had also made this point. But we have pointed out that in most cases, the evidence of the ethnically related hate motivation is overt.

A swastika on a synagogue is—there's no difficulty in discerning that. A phone or letter threat to someone with an anti-Semitic or anti-black or anti other group kind of message is easily discernable.

So, we feel that in that sense the——

Senator METZENBAUM. How about Senator Abourezk's point that a bombing of their organization's headquarters—do you think just on its face that it speaks for itself, that you don't need any further proof as to what the reason was?

Mr. SCHWARTZ. It may be that simply an act against a specifically targeted ethnic institution may be enough. I think there is a certain amount of judgment involved.

But we feel, for example, that an arson of a synagogue or a group such as that as Senator Abourezk mentioned is perhaps prima facie evidence. It may still have to be further investigated, but the idea that it is somehow mysterious, I think we would disagree with.

Senator SIMON. Ms. Clark and then Senator Abourezk.

Ms. CLARK. First of all, I would like to say—and it is just a reiteration of what's being said already—that the psychological cost to the victims, the individual victims and the communities victimized racially, ethnically, religiously, sexually oriented crimes should be the first concern.

And that in communities where there has been a response and a public outcry against incidents of violence, of hate violence, we're seeing that those incidents are not occurring with the same kind of consistency.

And I think that's important that when you begin to focus on situations like the Baltimore County Police Department has done, that in itself begins to cut down on the amount of crimes that take place.

So, although the initial cost might be great, I think the eventual outcome—we'll see that not only are we able to cut down on the number of incidents that are occurring, but that the costs won't be as great in the future.

Senator SIMON. Senator Abourezk.

Senator ABOUREZK. Mr. Chairman, I think perhaps to zero in on this cost question, if the Justice Department wanted to do something, they would never worry about the cost. They just don't want to do this, so they bring up the cost as an excuse.

Have you ever seen them undertake any of their own programs and come up here and complain about the cost of it? Of course not.

Might I just say something about Mr. Schwartz's comment a few minutes ago. And I don't want him to leave the wrong impression with the hearing record.

What he's doing is confusing condemnation with demagoguery, number one. Number two—but the real point of what I was saying that he missed, whether willingly or unwillingly, is that politicians and opinion leaders can leave an atmosphere of permissiveness with regard to violence against certain groups by how they react to that violence.

If they don't react at all, as they didn't react with the Alex Odeh killing, and with other acts against Arab Americans by the way, if that remains—if they remain silent, there's an aura of permissiveness.

I believe that's why the bombing occurred, because there was an atmosphere of permissiveness at that time, that it's okay to hate Arabs. It's okay to do something to them.

And that—I mean, Arabs are not the only group that get that—that get targeted that way. Blacks have been targeted, Jews have been targeted at different times in our history.

And what I'm saying is that it's very important that politicians understand that their words or their lack of words can contribute to that.

Senator METZENBAUM. Mr. Chairman, I'm going to excuse myself. I have an amendment on the floor. But I'm really pleased that you're moving forward with this hearing. I would ask the subsequent witnesses to excuse me as well.

Senator SIMON. Thank you, Senator Metzenbaum. We thank you for your leadership on this.

If I may follow through—it's not the immediate question before the subcommittee—but, Senator Abourezk, you mentioned FBI harassment of Arab Americans. Can you provide any detail on that?

Senator ABOUREZK. Yes, I can give you affidavits. Starting in 1981, I began collecting affidavits from Arab Americans who were subjects of harassment by the FBI. We have stacks of them and I would be happy to provide them all to you if you'd like them.

We periodically meet with the Director, whoever he might be. We used to meet with Webster, now with Sessions. And each one of them has denounced that, yet, except the agents continue to do it.

Senator SPECTER. Senator Abourezk, is there any pattern which emerges from the kinds of incidents you refer to?

Senator ABOUREZK. In the harassment incidents?

Senator SPECTER. Yes.

Senator ABOUREZK. Not—no, not really a pattern. There are some times when agents will go to Palestinians and say, "We want to talk to you about terrorism." And other times they will go to the neighbors of Palestinians and other Arab Americans and say—for example, there's a woman in Minneapolis who happens to be on our national board now. And she was active in the PTA.

And when the Palestinians mayors back in 1980, I believe it was, toured the United States, she hosted them out in Minneapolis, as did Don Fraser. You remember Don when he was in the House. Don held a dinner for them or something.

In any event, the agent in charge in Minneapolis went to her neighbors, didn't go to her house—but said we've got an anonymous tip that Mrs. Ishmael is a Palestinian terrorist.

And you can imagine what happened in a Minneapolis neighborhood in a suburb when the FBI comes up with something like that.

Senator SPECTER. There was a positive statement made by the FBI agent that this woman was a terrorist?

Senator ABOUREZK. Oh, yes.

Senator SPECTER. When the FBI was confronted with that, what did they say?

Senator ABOUREZK. First of all, I think I talked to somebody in the headquarters there named Clark. At that point, I met with a fellow named Clark, who has said well he was wrong in doing that.

Senator SPECTER. He conceded that he had, in fact, made the statement that the woman was a terrorist?

Senator ABOUREZK. Oh, yes. Oh, sure. He absolutely did. And I said, "Well, can you give Mrs. Ishmael a public—a letter she can make public, so at least her neighbors know that she is not."

They wouldn't do it, but they would apologize privately to me and that's as far as they would go.

And, in fact, the Minneapolis Tribune took an interest in it after I made a speech out in Minneapolis on that issue. They called the FBI and wrote an editorial on it denouncing the FBI, because they had gotten confirmation of everything that had happened. I'd like to send you—I will dig out that editorial and send it to you if you would like. But we got nothing in writing from the FBI.

The incidents then, of harassment, calmed down for a while after that. Then they heated up again. And at different times, for some reason, they decided they're going to do this sort of thing.

But it chills political activity on the part of Arab Americans. That's the outcome of it all.

Senator SPECTER. When you say "they decide from time to time they're going to do this sort of thing," do you believe it's some concerted decision by the FBI at a higher level as opposed to sporadic activity by individual agents?

Senator ABOUREZK. Well, I would—my guess is, yes, because from what I know of the FBI, they're a bureaucracy that won't move unless they're pushed. I don't think they undertake these things on their own down in the field office.

Senator SPECTER. Thank you.

Senator ABOUREZK. Thank you.

Senator SIMON. Do you have any questions for any of the other witnesses here?

Senator SPECTER. Not at this time, Mr. Chairman. I regret my absence after going to vote. I found there was a meeting on the House side on the Fair Housing Act. I know that's a meeting you wanted to attend. And I did so for a few minutes.

Senator SIMON. We thank you all. And let me just add it is important that all of us stand up. And that's why we think the gathering of statistics is going to help. We must stand up against any discrimination that comes, whether it's against black Americans or Jewish Americans or Arab Americans or Asian Americans or against gays and lesbians. We must stand up against any discrimination that comes.

Whenever that violence occurs, whenever that poison of hatred comes into our society, we have to fight it. And one of the effective ways of finding out how much of a problem we have is to have adequate data gathered. We thank you very very much for your testimony.

Our next panel is Mr. William Yoshino, Mr. Kevin Berrill, and Rev. Charles Bergstrom.

PANEL CONSISTING OF WILLIAM YOSHINO, MIDWESTERN REGIONAL DIRECTOR, JAPANESE AMERICAN CITIZENS LEAGUE, KEVIN BERRILL, NATIONAL DIRECTOR, GAY AND LESBIAN TASK FORCE; AND THE REVEREND CHARLES BERGSTROM, FORMER DIRECTOR, LUTHERAN OFFICE FOR GOVERNMENTAL AFFAIRS

Senator SIMON. Mr. Yoshino is the Midwest regional director for the Japanese American Citizens League. And we're very pleased to have you here. Mr. Yoshino.

STATEMENT OF WILLIAM YOSHINO

Mr. YOSHINO. Thank you very much, Senator Simon. I appreciate this opportunity to testify.

The Asian American community is well-acquainted with acts of racial violence. The most glaring recent incident was the brutal killing of Vincent Chin in 1982.

Vincent Chin was mortally wounded with a baseball bat wielded by an auto worker in a bar room altercation in which racist slurs further provoked the incident during a time when Michigan and the American auto industry were in the throes of an economic recession.

Acts of violence and discrimination toward Asians can be traced to the initial immigration of the Chinese during the mid 1850's.

The Chinese who contributed greatly to the expansion of the West, through their toil in the gold mines of California and their labor in the building of the Transcontinental Railroad were ruled ineligible from testifying in court against whites in an 1854 California Supreme Court ruling.

In effect, this gave sanction for all manner of crimes against the Chinese so long as no white person was able to testify in their behalf.

The Chinese were finally excluded from immigration through a series of exclusion acts passed in Congress beginning in 1882.

The Japanese soon replaced the Chinese as a source of labor during the latter part of the 1800's. Like the Chinese before them, the Japanese soon experienced anti-Asian sentiment which resulted in their exclusion from immigration in 1924.

Incarceration of Japanese Americans during World War II can certainly be classified as an act of violence toward an American ethnic group.

The expulsion from their homes, the loss of real and personal property, the humiliation and ostracism and finally the loss of freedom came about in an environment of intolerance in which an innocent group was victimized because of their ancestry.

We believe there has been a dramatic upward trend in violence toward Asians since 1980. This is based more on the counts we gleaned from the mainstream and vernacular press and the emergence of Asian American groups organized specifically to address this problem.

Between 1985 and 1986, the Los Angeles County Human Relations Commission reported a 346 percent increase in racial incidents, 24 percent of which were against Asians.

In an article entitled "Mask of Tolerance" in the November 15, 1987, San Francisco Examiner, an account of various anti-Asian incidents in the San Francisco area are enumerated. Some of which are October 1980, a Laotian family's east Oakland home is gutted by a fire bomb. No one is arrested.

February 1983, a cross is burned on the lawn of the Filipino resident in Fremont.

March 1984, Thong Hy Hyung, a Vietnamese high school student in Davis is stabbed and killed by a white student after a month long series of racial incidents at the school. Four months later, quote "Death to Gooks" is spray painted over a memorial marker for Hyung.

September 1985, the *Hazel B*, a Vietnamese fishing boat is hit by gunfire from an unidentified boat in Bolinas Bay.

Two of the broad factors which have contributed to this increase in violence toward Asians are, first, the Asian American population has more than tripled since 1970.

In 1970, the population of Asian Americans was approximately 1.5 million. In 1980, the population had increased to 3.5 million and current estimates placed the Asian American population at over 5 million, with that number expected to double by the year 2000.

Second, the domestic economy of the United States directly impacts the viewpoint of large segments of our political, corporate and labor communities.

The decline in some of our major industrial sectors with the result in monetary and job loss combined with gains in those same sectors in Pacific Rim countries create the atmosphere for antagonistic relations and attitudes.

This takes place as a result of characterizations of the trade frictions in a racial manner by various opinionmakers in government, business, labor and the media.

Because distinctions are not often made between Asian Americans and Asian nations, persons of Asian ancestry often become the focus and in some cases the victims of this negative sentiment.

Combating bias crimes requires that accurate statistics be gathered on the extent of the problem. More information about hate crimes, including where they occur, the groups they are perpetrated against and the type of crime could focus the efforts of law enforcement officials in identifying areas requiring greater law enforcement attention.

This information could also help in dealing with racial tensions in a community for response not only by law enforcement officials, but also by government human relations agencies as well as private community organizations.

The underlying basis for this legislation is that bias crimes may have a profound effect on communities beyond that of other crimes.

Bias crimes have the potential for creating community divisiveness, thus tearing at the very fabric of our society.

The Japanese America Citizens League strongly supports this legislation. Thank you.

[The prepared statement of Mr. William Yoshino follows:]

TESTIMONY OF THE JAPANESE AMERICAN CITIZENS LEAGUE

Introduction

The original intent in founding the Japanese American Citizens League over 50 years ago was to counteract the virulent Anti-Asian sentiment in California and the West Coast dating to the arrival of the first Asian immigrants in the 1800s. Since then the JACL has reacted to the ebb and flow of anti-Asian sentiment in the United States including the current rising trend beginning in the early 1980s. Our concern is rooted in our responsibility as citizens to insure that this nation lives up to its ideals of fair and equal treatment. We are also concerned because, as Asian Americans, we are the victims of this negative sentiment.

The term "Asian American" is a misnomer in many respects because it ignores the varied and distinct cultures and histories of each Asian ethnic group. Because of common physical characteristics, however, each individual Asian ethnic group tends to be perceived without distinction from other Asian ethnic groups. The result in terms of anti-Asian sentiment is that regardless of whether the sentiment is directed at Japan or Korea or China, all Asian Americans are at-risk because Asians are perceived in monolithic terms.

Because incidents of racial violence toward Asian Americans are difficult to document, there are limitations to this report. First there is inconsistency in the categorization, identification, and reporting of racially motivated incidents. Secondly, and more significantly, the nature of Asian American communities results in an under-reporting of racially motivated incidents.

The interaction of five broad factors contribute directly to the dramatic rise of anti-Asian sentiment and violence in the United States. This report discusses these factors in greater detail and includes appendices that provide data and examples of these five points.

1. The Asian American population has increased over 700% during the past 20 years. The 1960 census showed a population of 1/2 million persons of Asian ancestry. By 1970 the population had increased to 1.5 million. The most recent census in 1980 placed the Asian American population at 3.5 million. Current estimates place the Asian American population in excess of 5 million with that number expected to double by the year 2000.

   The arrival, growth, and interaction of new cultures with our society require transition, accommodation, and thoughtful planning and implementation. The absence of such efforts on an appropriate scale leads predictably to a rise in tensions until a level of acceptance or understanding is achieved.

2. The ratio of American-born to foreign-born Asians is low. Three out of five Asians in America are newcomers to this country. Factors and characteristics of distinguishible new-immigrant

populations related to housing patterns, accessible occupations, perceptions, and individual demeanor also lend themselves to misunderstanding resulting in conflict and violence.

3. Macroeconomic influences such as the impact of international trade conflicts with Pacifc Rim nations contribute to the increase in violence toward Asian Americans. This takes place as a result of characterizations of the trade frictions in a racial manner by various opinion-makers in government, business, labor, and the media. Because distinctions are not often made between Asian Americans and Asian nations, persons of Asian ancestry often become the focus, and in some cases, the victims of this negative sentiment.

   The domestic economy of the United States directly impacts the viewpoint of large segments of our political, corporate, and labor communities. The decline in some of our major industrial sectors with the resultant dollar and employment loss combined with gains in those same sectors in Pacific Rim countries create the atmosphere for antagonistic relations and attitudes.

4. The general perception of persons of Asian ancestry in the general public from sources such as television, movies, and the print media tends to portray persons of Asian ancestry in a stereotypic and caricature fashion. These negative portrayals together with the absence of positive images and role models obstruct public understanding of the Asian American community.

   In addition, the positive achievements of Asian Americans in education, employment, and income are often viewed with envy. Thus, even perceptions that would seem to be positive have a detrimental aspect.

5. The cumulative effect of the past century of racial conflict and discrimination directed at various Asian groups, both domestically and internationally, has implanted a deeply rooted tradition of anti-Asian sentiment. This unfortunate heritage is a foundation for the perpetuation and extension of archaic attitudes in a contemporary society.

The Rise in Anti-Asian Sentiment

A Background:

The resurgence of anti-Asian sentiment in the United States since the beginning of the 1980s has been documented in a growing number of incidents reported in both the ethnic press and in the mainstream media. The brutal murder of Vincent Chin in 1982 in the economically distressed city of Detroit galvanized this issue focusing attention on this unfortunate trend. The listing of race-related incidents in Appendix I is a an indication of this growing problem.

Discrimination and violence against persons of Asian ancestry in the United States has had an extensive history. Early immigrants were required to endure hardships, not only of social adjustment and

social condition, but of racial hatred directed at them. Over 600 pieces of legislation directed against persons of Asian ancestry were enacted between the late 1800s and the early 1900s. Sanctions and prohibitions were imposed, limiting or excluding Asian Americans from citizenship, intermarriage, land ownership, employment, and other forms of participation in American life. The intensity of anti-Asian sentiment culminated during World War II. The highest level of each of the three branches of the Federal Government acted to exclude persons of Japanese ancestry from their homes on the West Coast and placed over 120,000 persons of Japanese ancestry in inland camps surrounded by barbed wire and guarded by armed soldiers without charges of wrongdoing and without due process of law.

Many of the barriers which excluded Asian Americans from full participation in American society have been reduced. In 1947, the Federal Alien Land Law prohibiting persons not eligible for citizenship from owning land was repealed. In 1952, the Japanese American Citizens League won a major legislative victory by supporting a measure that made citizenship available to the first generation (Issei) as well as other new immigrant Asians. The 1956 initiative known as Proposition 13 finally removed the Alien Land law statutes in California. Court challenges, legislative campaigns, and direct initiatives were implemented to lift the historical barriers imposed on persons of Asian ancestry in the United States. In 1959, following a 21 year effort, statehood was realized for Hawaii when ethnic population considerations diminished as a barrier.

The period following World War II reflected a gradual improvement in anti-Asian sentiment. The American Chinese, Filipino, and Japanese populations had served with distinction during the war. In particular, the 100th/442nd Regimental Combat Team, a segregated unit composed of Japanese Americans, became the most decorated unit for it size and length of service in American military history. The record of the 100th/442nd RCT dramatically demonstrated the loyalty of Japanese Americans to the United States. This record eased the anti-Asian attitude among many in America concerning the ability of Asian Americans to assimilate and contribute to our society. To a large extent it was this record that facilitated the passage of legislation to make Hawaii the 50th State. Previously, there had been considerable opposition in Congress to admit Hawaii because of reservations regarding its large Asian population.

It is also important to note that each of the past three major military involvements by the United States has been with an Asian nation (Japan, Korea, Vietnam). These encounters have served to focus upon Asians as enemies of the United States. It is not uncommon to find former United States military personnel who still harbor resentment and bitterness toward those of Japanese ancestry as a result of World War II. The Korean War and the war in Vietnam have only reinforced this bitterness for succeeding generations.

In 1960, the population of Asian Americans in the United States was 1/2 million or less than 0.5% of the total population. The civil rights movement of the 1960s which involved the participation of Asian Americans resulted in an expansion and liberalization of immigration

quotas for Pacific Rim nations. By 1970, the population of Asian Americans reached 1.5 million, a 300% increase over 1960. This increase was largely due to greater equity in the allocation of immigration quotas from Pacific rim nations and, in part, from the United States involvement in Vietnam.

The 1980 census records 3.5 million persons of Asian ancestry or 1.6% of the total U.S. population. Geographically, the Asian American population is concentrated in the West Coast states, thus limiting their exposure to a large portion of the country. With persons of Asian ancestry accounting for 40% of the immigration to the United States, compared to 6% in 1965, and over one-third of these individuals declaring an intent to reside in California, the continued expansion of Asian American communities must be anticipated.

During this period of increased Asian immigration, there was also a higher level of interest in ethnic identity and ethnic pride within the Asian American community as evidenced by the development of ethnic studies departments at many universities. This situation evolved as a result of the civil rights movement when many second and third generation Asian Americans, particularly in the Japanese and Chinese communities, began reaching majority. The demographics of the Asian American community related to such areas as education and income also began to take shape as the early immigrant communities began to reach maturity.

During this same period the economies of Pacific Rim nations began to emerge. An increase in trade relationships as well as strategic military ties placed a growing national focus on Asian countries. By 1981, the trade volume between the United States and Asian countries exceeded the volume across the Atlantic for the first time in the nation's history. This transition in trade relationships together with the erosion of traditional industrial sectors in the United States has focused public attention on the Pacific Rim. The rising trade deficit with the specter of "trade wars" create an unsettled environment that can have a direct bearing on the lives of Americans of Asian ancestry.

Resurgence of Violence:

Incidents of racially motivated acts against a particular group are difficult to identify and categorize. The partial list of incidents provided in this report (see Appendix I) indicates a substantial increase in violent acts directed against persons of Asian ancestry. It should also be noted that the major source of information in compiling this report is the media. The report does not account for those incidents which go unreported by the media. In addition, an under-reporting of incidents occur as a result of psychological and cultural barriers within certain of the Asian American communities, particularly among the new immigrants.

The significance of this growing problem is evidenced by articles on the rising trend in Asian violence in newspapers such as the New York Times, Wall Street Journal, Boston Globe, Washington Post, San Jose Mercury, San Francisco Examiner and the Los Angeles Times. In

addition there has been a significant increase in the number of anti-Asian violence stories carried in the ethnic community press. Official hearings by public entities on the subject of anti-Asian violence is another indicator that this situation has reached the level of public discourse. This is especially true on the West Coast where Human Relations entities for Los Angeles, Sacramento, Santa Clara County, and San Diego have been investigating this problem. At the state level, the Attorney General of California has formed a Commission on Ethnic and Religious Violence and in 1985, the United States Commission on Civil Rights investigated and released a report on anti-Asian violence.

Institutions in the Asian American community have responded to the rise in anti-Asian activities. The Japanese American Citizens League, a national civil rights organization composed of 114 chapters nationwide, has monitored this disturbing trend and held major forums and workshops on this subject. The Organization of Chinese Americans authored a report expressing their concern on this problem. In California and elsewhere, organizations have been established in response to the increasing incidents of violence toward Asian Americans. Religious groups such as the Americans Friends Service Committee and the Presbyterian Church have held conferences on this subject. Various Jewish organizations have cooperated with Asian American organizations in attempts to pass hate-crime legislation at the state level.

Community Demographics:

In 1980 the United States Census Bureau identified 3.5 million persons of Asian ancestry in the United States. This represents a 250% increase from the previous decade and a cumulative 700% increase from 1960. Asian Americans are the fastest growing population in the United States. Demographers predict that by the year 2050, the Asian American population percentage will equal the current Hispanic percentage in the United States.

While Asian Americans reside in each of the 50 states, only 7 states have Asian American populations exceeding 100,000 (California, Hawaii, New York, Illinois, Texas, New Jersey, and Washington). One-half of the total Asian American population resides on the West Coast. By comparison, less than 20% of the total U.S. population resides on the West Coast. Immigration from Asia now constitutes 40% of the total immigration with 35% of these new Asian immigrants declaring an intention to reside in California.

Today, the majority of Asian Americans are relative newcomers to this country. Except for the Japanese American community which is 72% American-born, all other Asian American communities are predominantly first generation Americans (see Appendix II). In addition, Asian Americans are a diverse group. In cities such as Los Angeles, the Asian American community may include as many as 25 distinct ethnic and cultural groups.

Asian Americans have been characterized as a "successful minority." This perception is directly attributable to statistics

which show that Asian Americans have high levels of achievement in education and income. In 1980, the mean family income for Asian households was $26,456 as compared to $24,217 for white families. The national average was $23,144. It is clear, however, that these figures are misleading when they are adjusted for the number of workers per family. For example, in the nine Bay Area counties surrounding San Francisco, the mean income level is $29,556. For white households, the level is $29,844; for Asian households the level is $27,373. In this area there are 1.78 Asian workers per household and 1.32 for whites with an overall average of 1.35 for the area. On a per worker basis, the income is $15,378 for Asians, $22,609 for whites, and $21,893 overall. This pattern exists statewide in California and in the nation.

Educationally, 75% of Asians have completed high school or beyond. This compares with 56% among white Americans and 65% nationally. This discrepancy would indicate that Asian Americans are underemployed in the workplace.

In terms of household income and education, the public is left with a perception that the Asian American is a successful minority. Even though this perception is at variance with the facts, it is a cause for envy and backlash.

Three of every five Asian Americans are foreign-born. A disproportionate number of Asian American who become the victims of racially motivated crimes are foreign-born. This pattern of victimization may be explained by factors which are unique to their situation.

1) Newcomers have little familiarity with the various customs, norms, and values of America. The newcomer is vulnerable and less able to recognize potential conflict situations, thus, the newcomer often lacks the facility to identify and escape a situation until it has escalated.

2) The level of self-assurance is reduced in a new environment, which is often communicated in body language and assertiveness, providing a perception of vulnerability.

3) New immigrants are very often situated in high-risk situations because of their economic condition. Dependence on public transportation, conditions of available and affordable housing, and accessible employment patterns are examples which create these high-risk situations.

4) The new immigrant communities lack visibility and are especially subject to myths, stereotypes, and misperceptions.

5) The patterns and activities of daily life for new immigrants are the result of a different cultural and social setting. These activities are often perceived as inappropriate or even distasteful to many persons raised in an American cultural setting.

6) The new immigrant communities represent a population which, in

many cases, do not have a pre-existing community that can provide a transitional buffer for the newly arrived.

Since 1975, of the 3.3 million total of new arrivals in the United States, 1.2 million were of Asian ancestry. It was during this period that 90% of the Vietnamese and 97% of the Laotians arrived in the United States. Over 50% of the immigrants from Korea and Hong Kong entered during that period. A study by the Population Reference Bureau in Washington, D.C. projected that the Asian American population could range between 9.7% and 14.4% of the U.S. population by the year 2080.

Impact of the Economic and Political Environment

The 1980s has witnessed a restructuring of the global economy. Much of this change is due to the rise of Pacific Rim economies and a decline in the traditional smokestack industries in the United States. The result is that both business and labor have focused on foreign competition as the explanation for the ills of American industry.

Anti-Asian sentiment is painfully evident throughout our society. An Ohio public official was quoted as saying, "Johnny Washbucket doesn't want to hear about not hurting Japanese sensibilities. I'm careful not to talk about imports, not specific nations, but everyone knows the names on the car grilles and where they come from we don't feel sorry for the Japanese. The racial remarks bother me, but they're inevitable." Bumper stickers proclaim, "I'd rather eat worms than ride a Jap bike." Referring to the racist demogoguery by some Americans on the trade issue, the President's Special Trade Representative, William E. Brocak stated, "...the line has been crossed." Another public official has referred to Japanese workers as "those little yellow people." Bennett Bidwell, former president of Hertz and now with Chrysler once suggested that the best way to handle the trade imbalance would be to charter the Enola Gay, the plane that dropped the atomic bomb on Hiroshima.

The antagonism expressed by many of our political, business, and labor leaders toward Pacific Rim nations serves to inflame racial sentiment toward Asian Americans. Actor Robert Ito has said, "You learn that you're always seen as Japanese, or Chinese, or Vietnamese, or Thai, or Cambodian, when it comes down to it." Similarly, California congressman Robert Matsui, a third-generation American of Japanese ancestry, has said, "I've never been to Japan, I can't speak Japanese. I'm an American. Yet, we have to bend over backwards to show our loyalty to the United States compared to other ethnic groups."

Incidents of anti-Asian violence often list the victims as foreign nationals when, in fact, they are American citizens. The United States has idealized its perception and image of an American. People whose language, appearance, or customs do not fall within this perception are assumed to be foreign and not American. Very often, the victims of violence have been identified with the much publicized trade conflict between the United States and Japan. These identifications have nothing to do with distinguishing between various

Asian ethnicities as in the case of Vincent Chin, a Chinese American, who fell victim to animosities harbored toward Japan. Thus, even when tension are focused toward a particular Asian nation, all persons of Asian ancestry are at risk because those who would perpetrate racially-motivated acts may not have the ability or interest to make the distinction between the various Asian ethnic groups.

Media -

A 1979 study by the University of Pennsylvania's Annenburg School of Communications showed that only 2.5% of the characters on prime time television during the period 1970-76 were Asian. In the last year of that study, only 0.6% of the prime time characters were Asian. The absence of positive images is a major factor which perpetuates the negative image of Asian Americans. Asians are narrowly viewed and cast in caricatured portrayals rather than in the broad spectrum of roles they assume in real life. The American Telecommunications Association has identified films such as "Indiana Jones and the Temple of Doom," "Revenge of the Nerds," "Sixteen Candles," and "Gremlims" as characterizing Asians in a negative manner. In addition, Michael Cimino's "Year of the Dragon" outraged the Asian American community with its negative portrayal of Asian Americans.

In addition to films and television programming, the role of commercial advertising is also a major concern because of the manner in which it affects anti-Asian sentiment through its repetitive nature. Here, the attention on foreign competitors is often the focus rather than product comparison, cost, utility, or service, thus utilizing subtle elements of racism as leverage to boost a product. While few individual advertisements would be identified as wholly negative, the accumulation of significant industry sectors in adopting this tact has the net effect over time of casting Asians in a negative light.

Bias Crimes Statistics:

Combatting bias crimes requires that accurate statistics be gathered on the extent of the problem. More information about hate crimes including where they occur, the groups they are perpetrated against, and the type of crime could focus the efforts of law enforcement officials in identifying areas requiring greater law enforcement attention. This information could also help in dealing with racial tensions in a community for response not only by law enforcement officials but also governmental human relations agencies as well as community organizations.

The underlying basis for this legislation is that bias crimes may have a profound effect on communities beyond that of other crimes. Bias crimes have the potential for causing psychic damage to entire communities by making them feel vulnerable, fearful, unprotected, and suspicious of other groups. In addition, bias crimes have the potential for raising racial tensions which could lead to reprisals by those in the community. Bias crimes have the potential for creating community divisiveness, thus tearing at the very fabric of our society.

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Senator SIMON. Our next witness is Mr. Kevin Berrill, the director of the antiviolence project for the National Gay and Lesbian Task Force. Mr. Berrill, we're happy to have you with us.

STATEMENT OF KEVIN BERRILL

Mr. BERRILL. It's a pleasure to be here, Mr. Chairman. For your information, the National Gay and Lesbian Task Force is America's oldest and largest gay civil rights advocacy and public education organization.

We welcome the opportunity to bring to the subcommittee's attention the problem of hate violence and the need for the Federal collection of statistics on hate crimes.

Mr. Chairman, I come before you today representing a community that is under siege. Just last year a record high of 7,008 hate incidents, ranging from harassment to homicide, were reported to the National Gay and Lesbian Task Force from across the United States.

We estimate that his figure represents just the tip of the iceberg. A more accurate and more frightening assessment of the antigay violence problem is provided by survey data.

In a national survey we conducted several years ago, nearly 1 in 4 gay men and nearly 1 in 10 lesbians had been punched, hit, kicked or beaten, at least once in their lives because of their sexual orientation. More than 90 percent had experienced some kind of antigay harassment or violence.

Other surveys conducted in States as diverse as Illinois, Pennsylvania, Maryland, and Alaska, have also shown similar high rates of victimization.

As the Presidential Commission on the HIV epidemic has noted, AIDS-related hate crimes are a serious and growing problem. Hundreds of incidents reported to us last year included verbal references to AIDS by the perpetrators or were directed against persons with AIDS.

Without a doubt, AIDS has fanned the flames of antigay prejudice and provided those who hate gay people with yet another excuse for harming them.

Some recent examples of antigay hate crimes include the following. In Bucks County, PA, a gay man was murdered by two heterosexual men, who beat and stabbed him and cut out his voice box. Before the killing, the assailants were overheard by a witness to have said that they hated "queers."

Several months earlier in San Francisco, a heterosexual man was stabbed to death because he was perceived to be gay by his assailants. And in New Jersey, three men beat a gay man, extinguished cigarettes in his face, and tied him to the back of a pickup truck and drove the truck, dragging him in tow.

As testimony from other witnesses today illustrates, increased reports of antigay violence come at a time of widespread attacks against members of the Arab, Asian, black, Hispanic, Jewish, and native American communities.

Last year a study of bias crime sponsored by the National Institute of Justice—the research arm of the Justice Department—also concluded that crimes of bias are pervasive and "are far more seri-

ous than comparable crimes that do not involve prejudice, because they are intended to intimidate an entire group; and thus tear at the very fabric of our society."

Given the magnitude and serious consequences of bias crime, we as a society must recognize and respond to the problem. The question is how and where to begin.

We believe the collection of statistics on hate crimes is an important first step. While data collection does not guarantee that there will be an adequate official response, without official data we are virtually guaranteed not to have an adequate official response.

The study on bias crimes sponsored by the Justice Department reached the very same conclusion. It stated that there was a pressing need for such data in order to understand the severity, pattern and location of bias crimes and to respond accordingly. And for the same reason the U.S. Commission on Civil Rights has repeatedly called for Federal hate crimes statistics collection.

Given these findings and recommendations, we are at a loss to understand why this administration, which has taken a strong stand against international terrorism, opposes a sound effort to help combat the terrorism within our own borders.

Why does this Justice Department, known for its tough stand on law and order, shake its head and drag its heels and offer bureaucratic excuses when the crime victims are members of racial, ethnic, religious, and gay communities?

Mr. Chairman, I wish to emphasize that Federal data collection is not an end in itself. In States and localities where bias crime data are already being collected, it has paved the way for improvements in the way that these crimes are identified, classified, investigated, and prosecuted. It has also led to greater sensitivity to hate-crime victims and improved trust between the police and communities at risk.

In closing, Mr. Chairman, it is our hope that this subcommittee and the Senate will join the House of Representatives in supporting legislation to collect statistics on antigay violence, as well as crimes based on race, religion and ethnicity. By doing so, you will help accelerate the social and criminal justice system response to hate crimes and safeguard the fundamental right of citizens to be free from intimidation and violence.

Once again, we thank you for the opportunity to bring our concerns to your attention.

[The prepared statement of Mr. Kevin Berrill follows:]

PREPARED STATEMENT OF KEVIN BERRILL
DIRECTOR, ANTI-VIOLENCE PROJECT

NATIONAL GAY AND LESBIAN TASK FORCE

Mr. Chairman and members of the Subcommittee, I am Kevin Berrill, Director of the Anti-violence Project of the National Gay and Lesbian Task Force. Founded in 1973, NGLTF is America's oldest and largest gay civil rights advocacy and public education organization. We welcome the opportunity to bring to the Subcommittee's attention a problem of growing concern to all Americans—that of hate violence. I am here to urge this Subcommittee to favorably report a bill to the Senate that would require the federal collection of statistics on crimes motivated on the basis of race, religion, sexual orientation and ethnicity.

Background

Mr. Chairman, I come before you today representing a community that is under siege. Reports to the National Gay and Lesbian Task Force of harassment, assault, arson, vandalism, homicide and other crimes against lesbian and gay people have increased dramatically in recent years. In 1987 for example, 7,008 anti-gay incidents were reported to NGLTF by local groups across the U.S, as compared to 4,946 episodes reported in 1986. While we estimate that this figure is only a small fraction of the actual total number of incidents that occurred last year, it is still alarming.

As the Presidential Commission on the Human Immunodeficiency Epidemic has noted, AIDS-related hate crimes are a serious and growing problem. Without a doubt, AIDS has fanned the flames of anti-gay prejudice and provided those who hate gay people with another excuse for attacking them. Among those groups reporting incidents to us in 1987, nearly two thirds indicated that fear and hatred associated with AIDS contributed to the problem of anti-gay violence. Moreover, 15% of all incidents reported to NGLTF for last year involved verbal references to AIDS by perpetrators or were directed against persons with AIDS.

Some incidents reported to the National Gay and Lesbian Task Force in the past year include the following:

o On September 13 in Long Beach, California, three young men assaulted a gay man with AIDS, breaking his hip and causing other injuries.

o On July 12 in San Francisco, a heterosexual man was stabbed to death because he was perceived to be gay by his assailant.

o On March 17 in Philadelphia a man brutally assaulted a lesbian after she told him her sexual orientation.

o Last winter in Chicago, several individuals sent letters to friends, employers, and family members of gay men, stating that the men were possible carriers of AIDS and should be avoided "at all costs." The letters were signed "The Great White Brotherhood of the Iron Fist."

o On November 15 in Fort Lauderdale, five men with baseball bats attacked several gay men on the street. Injuries to one victim were so severe that his jaw had to be wired shut; another victim required scores of stitches and lost his hearing in one ear.

o Just a few months ago in Nashville, Tennessee a gay minister walked into his home to find it a shambles, and the words "fag" and "homo" written all over the walls of his house and possessions.

These and thousands of incidents documented by NGLTF are just the tip of the iceberg. A more accurate—and more frightening—assessment of the problem is provided by survey data. In an eight-city anti-gay violence survey conducted by NGLTF in 1984, nearly one in four gay men and nearly one in ten lesbians reported having been punched, hit, kicked or beaten at some time in their lives because of their sexual orientation. More than forty percent had been threatened with violence. Overall, more than ninety percent had experienced some type of victimization—ranging from harassment to brutal assault. Other anti-gay violence surveys conducted in states as diverse as Maine, Wisconsin, Alaska, New York, Maryland and Illinois have shown similar high rates of victimization. Furthermore, during a 1986 House Criminal Justice Subcommittee hearing on anti-gay violence, witnesses from law enforcement, professional, and civil rights groups testified that such crimes are a serious and growing problem.

As testimony from other witnesses today vividly illustrates, lesbian and gay people are by no means the sole targets of bias crime. The increase in reports of anti-gay violence come at a time of widespread attacks against members of the Arab, Asian, black, Hispanic, Jewish and Native American communities. The killing of a black teenager in Howard Beach, the organized hate violence of Forsyth County, Georgia, growing attacks upon Asian immigrants and their businesses, hundreds of documented anti-Semitic incidents—all create a disturbing picture of a society in which respect for human diversity is on the decline.

A report recently released by the Center for Democratic Renewal and the National Council of Churches—which chronicles thousands of incidents motivated by racial, religious and anti-gay prejudice—describes hate violence in America today as a "largely unrecognized cancer eating away our communities and social institutions." It also concludes that while membership in the Ku Klux Klan is stable, there has been a proliferation of individuals and small hate groups acting on their own.

Last year, a study of the criminal justice system's response to bias crime by the National Institute of Justice—the research arm of the Department of Justice—also concluded that crimes of bias are a serious and growing problem. Entitled "The Response of the Criminal Justice System to Bias Crime: An Exploratory Review," the report stated that "the most frequent victims of hate violence today are blacks, Hispanics, Southeast Asians, Jews and gays and lesbians. Homosexuals are probably the most frequent victims."

Sadly, the Department of Justice has sought for months to suppress this report and curb its dissemination. Last month, the document was revised, this time without reference to a previous conclusion that homosexuals are probably the most frequent victims of hate crime. Also deleted from the report was recommendation that "strategies be developed to encourage legislatures to include gays and lesbians in their [hate crime] statutes." We believe that the Department of Justice's backtracking on the original report—and its failure to move forward on one of the most important social and criminal justice issues of our day—is motivated by the same prejudice that leads to anti-gay violence.

Returning to the issue at hand, both the original and the revised NIJ reports acknowledge that "there are no accurate data regarding the number of bias crimes committed each year," but that there is considerable evidence to show "the problem is widespread" and may be increasing. According to both reports, "bias crimes may be turning more violent" compared with the past, and a larger proportion of incidents appear to involve personal injury.

While the revised report does not explore the reasons behind more frequent and more violent bias attacks, the original report explains that it is the result of "increased economic competition from minorities, visibility of gay men, ethnic neighborhood transition, and a perceived decrease in government efforts to prevent discrimination in education, housing, and employment." It also notes that bias offenses, in addition to being widespread, "are far more serious than comparable crimes that do not involve prejudice because they are intended to intimidate an entire group. The fear they generate can therefore victimize a whole class of people. Furthermore, our country is founded on principles of equality, freedom of association, and individual liberty; as such, bias crime tears at the very fabric of our society."

We could not agree more. Crimes of bias are intended to violate not just individual victims but their communities as well. These crimes carry a message to all people who are different: "Get out of our neighborhood!," "Go back to Africa, Asia, your queer closet, or wherever the hell you came from!" I think most of us like to view America as a place where people with widely ranging backgrounds, identities and values can live side by side, where differences are at least tolerated if not always appreciated. Hate crimes are acts of terrorism aimed a obliterating differences, all kinds of differences, and have the potential to promote violence capable of destroying our communities and our society.

Response of the Criminal Justice System

Despite the pervasiveness and the serious impact of hate crimes, both the original and revised NIJ reports found evidence that "the criminal justice system has not recognized the seriousness of hate violence." According to the original report, the lack of response by police officers, prosecutors and judges often reflects a low awareness or concern about the problem, or "the attitudes of local residents who do not want minorities in their communities."

On the local and state level there have been scattered but significant improvements in the law enforcement response to bias crime. A growing number of states—including California, Ohio, Connecticut, and Minnesota—have passed hate crime laws that increase penalties, facilitate prosecution or require the collection of data on the problem. In Maryland, New York, California, and Minnesota, statewide task forces have been established to examine the nature and scope of hate crimes and explore remedies. At the local level, police departments in New York, Boston, Los Angeles, Minneapolis and a few other cities have developed special programs to monitor and investigate bias crimes. Unfortunately, the laws and programs I have described are the exception rather than the rule. In most states and localities, crimes of bias have received little official acknowledgement.

Recommendations

Given the magnitude and the very serious consequences of bias crime, we as a society must recognize and respond to the problem. The question is how and where to begin. We believe the collection of statistics on hate crimes is an important first step. Such an effort would enable us to better understand the geographical extent and numerical frequency of bias attacks and provide an excellent tool for research into the causes and motivations of such episodes. While data collection does not guarantee that there will be an adequate official response, without sufficient data we are virtually guaranteed not to have an adequate response.

Mr. Chairman, federal data collection will result not only in a better understanding of the nature and scope of bias crime. It will also lead to a fundamental change in the way that local, state and federal law enforcement responds to these episodes. If police agencies are called on to monitor crimes of bias, it will pave the way for improvements in the way these crimes are identified, classified, investigated and prosecuted. We believe data collection will also result in a greater sensitivity to bias crime victims and a greater understanding of the impact these acts have upon communities. For example, in cities such as Boston and New York where police departments monitor bias crimes, there have been significant improvements in the way these cases are handled and how the victims are treated.

Although the Department of Justice took a stand in opposition to the House Hate Crime Statistics Act, the NIJ-sponsored study argued strongly in favor of data collection. According to both the original and revised reports, "one the most pressing considerations related to bias crime is the need for adequate data. Accurate and complete data are needed to understand the severity, pattern and location of bias crimes. With improved data collection, law enforcement officials and prosecutors will be better able to make appropriate resource allocation decisions and to target specific neighborhoods or organizations for special attention."

In a 1983 statement, entitled Intimidation and Violence: Racial and Religious Bigotry in America, the U.S. Commission on Civil Rights also calls

on federal and state authorities "to develop workable reporting systems that will produce an accurate and comprehensive measure of the extent of criminal activity" motivated by prejudice.... "Such data are needed to measure trends, develop preventative programs, allocate resources, and adjust public policy." In February of this year, the Commission reaffirmed in a resolution its support of federal hate crime statistics collection.

Clearly, the administration's opposition to national bias crime data collection runs counter to the recommendations of the NIJ-sponsored study and the U.S. Commission on Civil Rights, the very agency which is responsible for monitoring federal civil rights enforcement. Mr. Chairman, this administration has taken a strong stand against international terrorism, both in word and in deed. Why then does it oppose an important effort to combat the terrorism taking place within our own borders? Why has it brushed aside the case for data collection made by its own criminal justice and civil rights agencies? If there is no greater violation of one's civil rights than violence or the threat of violence, we are at a loss to understand why this administration—known for its tough stand on law and order—opposes this effort to help protect citizens.

In a letter to Congressman Rodino regarding the House Hate Crime Statistics Act (H.R. 3193), Assistant Attorney General Bolton argued that determining motivation in crimes would be a difficult and burdensome task for law enforcement. While it is true that the motivations of some bias attacks are not always evident, most hate crimes clearly manifest prejudice. With accurate and workable definitions of bias crime, police departments can readily assess motivation and classify incidents accordingly. The NIJ report offers sound guidelines for identifying whether a crime is bias related, including language used by the suspect, severity of attack (e.g. mutilation), lack of provocation, previous history of similar incidents in the same area, the absence of other apparent motive, and simple common sense. These criteria have helped police units in Boston, New York and elsewhere make generally accurate assessments on the motivations of attacks.

As you know, the administration has taken special exception to the federal collection of data on vandalism, trespass and threat. We believe these data are necessary because such crimes are both serious and frequent. According to the NIJ study, vandalism is among the the most commonly reported forms of hate violence. Reports issued by the Anti-Defamation League of B'nai B'rith, the National Gay and Lesbian Task Force, and other groups also show that threats, vandalism, and trespass are among the most frequent hate crimes. Examples of such crimes include swastika daubings, defacement of synogogues, churches and Jewish cemetaries, and death threats against minorities who move into segregated neighborhoods. Acts such as these have a profound and lasting effect upon victims and their communities. Removal of vandalism, trespass and threat from data collection efforts would trivialize these crimes and leave a huge gap in efforts to monitor and combat acts of bigotry.

Perhaps the most easily addressed concern raised by the administration is the ambiguity of the term "sexual orientation" in the House Hate Crime Statistics Act. In his letter to Congressman Rodino, Assistant Attorney General Bolton questioned whether the term could apply to conditions such as pedophilia. We agree the term should be clarified, and suggest that Senate hate crime statistics legislation use the definition of "affectional or sexual orientation" employed in S. 464. That legislation defines the term to mean "male or female homosexuality, heterosexuality and bisexuality by orientation or practice, by and between consenting adults."

Mr. Chairman, you will no doubt hear that bias crimes are so underreported, that official data will sharply underestimate the problem. That may be true, but then most crimes are underreported. We know, for example, that the number of reported rapes is just a fraction of the actual total. Even so, existing data on rape are extensive enough to indicate its high frequency, which in turn has led to major changes in ways that law enforcement deals with these crimes—including the establishment of special rape investigation units, training for officers on how to sensitively interview rape victims, and education for district attorneys on prosecuting rape cases.

Likewise, data collection on crimes motivated by bigotry will lead to improvements in the official response to such crimes. I believe that our society's awareness of this issue is at place similar to where we were with rape twenty years ago or domestic violence ten years ago or child abuse even more recently. Although hate violence is hardly a new phenomenon, the issue is now beginning to surface more frequently in the media as more victims step forward to tell their stories. We are also at a point where a handful of law enforcement agencies are making strides to combat the problem. But, as I have stated, these efforts are too few and far between.

With your help, Mr. Chairman, and that of your colleagues on this Subcommittee, we can accelerate the social and criminal justice response to hate crimes. Passage of hate crime statistics legislation in this Subcommittee and in the Senate can lead to official recognition of the problem that will lead to official action.

I would also like to take this opportunity to ask you and the other members of the Subcommittee to ensure that crimes based on sexual orientation are included in whatever bill is reported to the Senate. As you know, the House overwhelmingly rejected an amendment to remove anti-gay violence from the Hate Crimes Statistics Act sponsored by Representative John Conyers. Should a similar amendment be introduced on the Senate side, we hope you and your colleagues will likewise reject it.

The National Gay and Lesbian Task Force—along with a wide range of religious, civil rights, professional and law enforcement groups—believe that legislation to collect hate crime data should and must address crimes based on sexual orientation. Indeed, any legislation excluding anti-gay violence sends a message that attacks against gay people are somehow

qualitatively different from—and less reprehensible than—crime against members of racial, ethnic or religious groups. At a time when the AIDS crisis has fanned so much hatred and when anti-gay violence has reached epidemic proportions, we think it is dangerous for any hate violence initiative to ignore this urgent problem. Indeed, the exclusion of "sexual orientation" from this legislation would reinforce the already too widespread perception that victimization of gay people is acceptable.

Another compelling reason for including crimes based on sexual orientation in the legislation at hand, is that data on anti-gay violence will provide a more complete picture of the nature and scope of hate crimes against other groups. The more we understand about the perpetrators of anti-gay violence, the more it appears that they are among those who target Jews and people of color for violence. For example, the neo-Nazis who torched a gay Christian church in Missouri had earlier firebombed a Jewish community center in Indiana.

Finally, I would like to urge that a Senate hate crime statistics bill include a provision, such as that which is in S. 2000, to ensure that data acquired shall be used only for research or statistical purposes and will not contain any information that may reveal the identity of an individual victim of a crime. If victims of hate crimes have cause to believe that their names and addresses are being collected in police files, that will surely deter reporting and ultimately defeat the purpose of this legislation.

In closing, Mr. Chairman, we hope that this subcommittee will foster action that will enable all Americans—regardless of their sexual orientation, race, color, or creed—to live free from violence and fear. Once again, we thank you for the opportunity to bring our concerns to your attention.

# # #

Senator SIMON. We thank you for your testimony. And finally, a gentleman who used to be on the Washington scene regularly before retiring, we're very happy to have him back here, Rev. Charles Bergstrom.

STATEMENT OF THE REVEREND CHARLES BERGSTROM

Reverend BERGSTROM. Thank you, Senator. I'd like to join the choir of those singing words of appreciation to you and to the committee for these hearings.

And in all seriousness, I hope that these will lead to putting more spotlight on the case, so that whether or not statistics prove things to the Justice Department, people will be encouraged by the fact that something is being done to help them.

Perhaps I can best be of help by underlining and underscoring some of the portions of my written testimony, particularly from the viewpoint of a member of the major religious denominations.

I'm a minister who has served congregations in three large cities in New England. As the former director of the Lutheran Office for Governmental Affairs, here, in Washington, and now an active member of the board of People for the American Way, I've become fully aware of the alarming increase in hate crimes in this country reported and unreported.

I once served as the chairman of the Lutheran Church's board of social ministry which adopted statements opposing prejudice and intolerance.

But even now when addressing church groups I will hear comments occasionally indicating that even here, there are still feelings against certain racial groups, and those with different sexual orientation.

The religious affiliation, which is claimed by some perpetrators of hate crimes, is particularly disturbing to me as a Christian clergyman.

Groups who call themselves the Christian Patriots Defense League, the Covenant, the Sword and the Arm of the Lord and the Church of Jesus Christ Christian profess the religion of hate, not of love, and they pervert much of what we hold to be most sacred.

We've seen too much of this, I think, in attacks on political candidates and on public education. The well-known statement of another minister, Rev. Martin Niemoeller, indicates that if we wait until the attacks come to our group, we've waited too long.

Much evil has been done in the name of religion and this becomes an embarrassment to devout, religious citizens. And so I think it's important for me to testify on behalf of victims of hate, as a member of a major faith which is not so often under attack.

The church needs to speak clearly to this issue and in support of this legislation.

As you are aware, Mr. Simon, many religious organizations have already done that.

I salute the two organizations, particularly the Anti-Defamation League of B'nai B'rith, and the National Gay and Lesbian Task Forces for their studies, which have been a big help to us, and remind you of the attachment to my statement from the New York

Times of June 13, indicating again, that this seems to be increasing amongst our youth in attacks on blacks and others.

Hate crimes are frightening because they are motivated by prejudice against the victim's religion, race, ethnicity, or sexual orientation, and they're aimed not just at one individual. They are very often at an entire group of people. And so in my testimony, I point out that this is really a crime against society. Other religions of the community are hurt when there's a burning cross on the lawn of a synagogue. The whole community has lost something of strength when it is silent on issues such as this.

So I underscore the support for the data gathering which I think is important in the legislation. I underscore particularly the kind of support for Senate bill 2000 which addresses this particular problem and indicates the concern for sexual orientation. And as you are well aware, it comes very close to the bill that passed the House by a very large margin of 383 to 29.

Antigay violence has already been indicated on this panel as probably the most prevalent attack system right now and Representative Bill Green pointed out in his testimony in the House that it is often related to other prejudicial attacks on people. So, the gathering of the information needs to be done for all groups.

I'd like to read just two lines from a statement that the Lutheran Church adopted back in 1970 related to this particular matter of sexual orientation.

"Persons who engage in homosexual behavior are sinners only as are all other persons alienated from God and from neighbor. However, they are often the special and undeserving victims of prejudice and discrimination in law, law enforcement, culture mores and congregational life. It is essential to see such persons as entitled to understanding and justice in church and in our communities."

So I hope that the committees and the Senate will act to prevent this kind of activity from continuing as a destructive force within our community and will pass these particular pieces of legislation.

I am aware, Senator, that your father, also a minister, spoke out a generation ago on prejudice and hatred against Japanese Americans.

I don't advertise movies, but I understand from many who have seen a preview of the film "Betrayed," suggest that many of us see that as an actual picture of what can happen when persons are attacked, and individuals in groups are brought into this kind of hatred. So, again, I hope that this kind of testimony that you are hearing today, will be strengthening to your program, to your efforts, and to the passing of this bill. Thank you.

[The prepared statement of Rev. Charles Bergstrom follows:]

PREPARED STATEMENT OF REV. CHARLES BERGSTROM

MY NAME IS CHARLES BERGSTROM AND I AM VERY GRATEFUL FOR THE OPPORTUNITY TO TESTIFY IN SUPPORT OF THE HATE CRIMES STATISTICS ACT, LEGISLATION WHICH I BELIEVE IS VITALLY NEEDED. MR. CHAIRMAN, THANK YOU FOR HOLDING THIS IMPORTANT HEARING.

AS A MINISTER WHO SERVED CONGREGATIONS IN THREE LARGE CITIES IN NEW ENGLAND, AS THE FORMER DIRECTOR OF THE LUTHERAN OFFICE FOR GOVERNMENTAL AFFAIRS IN WASHINGTON, AND AS AN ACTIVE MEMBER OF THE BOARD OF PEOPLE FOR THE AMERICAN WAY, I HAVE BECOME FULLY AWARE OF THE ALARMING INCREASE IN HATE CRIMES IN THIS COUNTRY. I SERVED AS CHAIRMAN OF THE LUTHERAN CHURCH'S BOARD OF SOCIAL MINISTRY WHERE WE ADOPTED STATEMENTS OPPOSING PREJUDICE AND INTOLERANCE. AS AN AMERICAN CITIZEN, I AM DEEPLY TROUBLED BY THIS GROWING MANIFESTATION OF BIGOTRY AND INTOLERANCE.

THE RELIGIOUS AFFILIATION CLAIMED BY SOME PERPETRATORS OF HATE CRIMES IS PARTICULARLY DISTURBING TO ME, A CHRISTIAN CLERGYMAN. GROUPS WHO CALL THEMSELVES THE "CHRISTIAN-PATRIOTS DEFENSE LEAGUE," "THE COVENANT, THE SWORD AND THE ARM OF THE LORD," AND "THE CHURCH OF JESUS CHRIST CHRISTIAN" PROFESS A RELIGION OF HATE, NOT OF LOVE -- AND PERVERT THAT WHICH I HOLD MOST SACRED. THEIR USE OF RELIGIOUS SYMBOLS FOR THEIR ACTS OF DESTRUCTION AND BIGOTRY THREATENS ALL RELIGIONS -- BECAUSE IT UNDERMINES RELIGION. THOSE WHO BELIEVE IN THE VALUES OF TOLERANCE AND BROTHERLY LOVE MUST PUBLICLY REPUDIATE THESE HATE GROUPS. WE HAVE SEEN TOO MUCH OF THIS IN ATTACKS ON POLITICAL CANDIDATES AND ON PUBLIC EDUCATION.

I WOULD LIKE TO REMIND THE SUBCOMMITTEE OF THE WORDS OF WORLD WAR II SURVIVOR, REV. MARTIN NIEMOELLER:

> IN GERMANY THEY CAME FIRST FOR THE COMMUNISTS, AND I DIDN'T SPEAK UP BECAUSE I WASN'T A COMMUNIST. THEN THEY CAME FOR THE JEWS, BUT I DIDN'T SPEAK UP BECAUSE I WASN'T A JEW. THEN THEY CAME FOR THE TRADE UNIONISTS, AND I DIDN'T SPEAK UP BECAUSE I WASN'T A TRADE UNIONIST. THEN THEY CAME FOR THE CATHOLICS, AND I DIDN'T SPEAK UP BECAUSE I WAS A PROTESTANT. THEN THEY CAME FOR ME, AND BY THAT TIME NO ONE WAS LEFT TO SPEAK FOR ME.

MUCH EVIL HAS BEEN DONE IN THE NAME OF RELIGION. THIS IS AN EMBARRASSMENT TO MANY DEVOUT RELIGIOUS CITIZENS. I FEEL IT IS ESPECIALLY IMPORTANT FOR ME TO TESTIFY ON BEHALF OF THE VICTIMS OF HATE AS A MEMBER OF A MAJOR FAITH WHICH IS NOT SO OFTEN UNDER ATTACK. THE CHURCH SHOULD SPEAK CLEARLY ON THIS ISSUE AND IN SUPPORT OF THIS LEGISLATION BEFORE MORE PEOPLE SUFFER.

IN RECENT WEEKS, TWO MAJOR ORGANIZATIONS, THE ANTI-DEFAMATION LEAGUE OF B'NAI B'RITH AND THE NATIONAL GAY AND LESBIAN TASK FORCE, RELEASED STUDIES DOCUMENTING THE CONTINUING INCREASE OF INCIDENTS OF HATE CRIMES. REPORTS SUCH AS THESE CORRESPOND WITH RECENT PRESS ACCOUNTS ABOUT HATE CRIMES. AS AN EXAMPLE, I AM ATTACHING TO MY TESTIMONY A JUNE 13, 1988, ARTICLE

IN THE NEW YORK TIMES ON THE RISING INCIDENCE OF NEO-NAZI ACTIVITY AMONG AMERICAN YOUTH WHO HAVE BEEN TARGETING BLACK CITIZENS. ACCORDING TO THE TIMES, "(YOUNG MEN) ARE CHARGED WITH CRIMES THAT INCLUDE THE STABBING DEATH OF A BLACK TRANSIENT, THREATENING A BLACK BUS DRIVER WHO WAS A WITNESS TO VANDALISM AND THE TERRORIZING OF A BLACK TEACHER WITH THE DEMAND THAT SHE PAY A 'NIGGER TAX' TO WALK THE STREETS."

HATE CRIMES ARE ESPECIALLY FRIGHTENING BECAUSE THEY ARE MOTIVATED BY PREJUDICE AGAINST THE VICTIM'S RELIGION, RACE, ETHNICITY OR SEXUAL ORIENTATION -- AIMED NOT JUST AT THE UNFORTUNATE INDIVIDUAL TARGET, BUT AT AN ENTIRE GROUP OF PEOPLE. HATE CRIMES ARE THE MOST SUBVERSIVE FORM OF LAWLESSNESS IN A DEMOCRACY BECAUSE THE PERPETRATORS INTEND TO FRIGHTEN THE VICTIMS INTO THINKING THAT THEY ARE SECOND-CLASS CITIZENS, AND ARE NOT ACCEPTABLE AS NEIGHBORS AND CO-WORKERS. NOTHING IS MORE ABHORRENT TO OUR AMERICAN HERITAGE OF TOLERANCE AND COMMUNITY SPIRIT.

ATTACKS ON AMERICANS BASED ONLY ON THEIR RELIGION, RACE, SEXUAL ORIENTATION OR ETHNICITY ARE ATTACKS ON SOCIETY AS A WHOLE. WE AS A SOCIETY ARE DIMINISHED WHEN CHURCHES AND SYNAGOGUES ARE DEFACED BY PAINT AND CHISELS. THE WHOLE COMMUNITY SUFFERS WHEN OUR BROTHERS AND SISTERS OF DIFFERENT RACES AND ETHNIC BACKGROUNDS ARE BRUTALIZED BY THE WEAPONS AND SLURS OF

BIGOTS. AND WHEN OUR GAY CITIZENS ARE VICIOUSLY ATTACKED, OUR NATIONAL COMMITMENT TO BASIC DECENCY AND HUMANITY IS UNDERMINED.

THE FEDERAL GOVERNMENT SHOULD COLLECT DATA ON CRIMES MOTIVATED BY PREJUDICE. CURRENTLY, THE FEDERAL GOVERNMENT DOES NOT COLLECT DATA ON HATE CRIMES, AND I URGE CONGRESS TO CORRECT THIS OMISSION. BURNING A CROSS ON THE FRONT LAWN OF A BLACK FAMILY IS MORE THAN ARSON: IT IS A CRIME MEANT TO INTIMIDATE PEOPLE BECAUSE OF THEIR RACE. DEFACING A SYNAGOGUE IS NOT JUST VANDALISM: IT IS A CRIME MOTIVATED BY HATRED FOR JEWS. PHYSICAL ATTACKS ON GAYS AND LESBIANS ARE NOT JUST ACTS OF ASSAULT, BUT CRIMES MOTIVATED BY HATRED OF A GROUP OF PEOPLE BECAUSE OF THEIR SEXUAL ORIENTATION. THE INTENT OF HATE CRIMES IS TO INTIMIDATE THE LARGER GROUP WITH WHICH THE VICTIM IS IDENTIFIED.

THREE BILLS HAVE BEEN INTRODUCED IN THE SENATE TO DIRECT THE DEPARTMENT OF JUSTICE TO COLLECT AND PUBLISH DATA ON HATE CRIMES. ONLY ONE OF THE BILLS HOWEVER, S. 2000, ADEQUATELY ADDRESSES THE PROBLEM BECAUSE ITS COVERAGE INCLUDES HATE CRIMES MANIFESTING PREJUDICE BASED ON SEXUAL ORIENTATION. S. 2000 IS ALSO THE COMPANION LEGISLATION TO H.R. 3193, WHICH PASSED THE HOUSE OF REPRESENTATIVES ON MAY 18TH BY AN OVERWHELMING BIPARTISAN VOTE -- 383-29.

COMPELLING EVIDENCE SHOWS THAT ANTI-GAY VIOLENCE IS THE MOST PREVALENT FORM OF HATE CRIMES, AND MANY PERPETRATORS OF ANTI-GAY

VIOLENCE ALSO COMMIT HATE CRIMES BASED ON RELIGION, RACE AND ETHNICITY. AS REP. BILL GREEN OF NEW YORK POINTED OUT DURING THE HOUSE DEBATE ON H.R. 3193:

> A NEO-NAZI LEADER CONVICTED IN THE 1983 ARSON OF A JEWISH CENTER IN INDIANA WAS ALSO FOUND GUILTY OF TORCHING A GAY CHURCH IN MISSOURI, AND IN ALABAMA, A KLANSMAN WHO HAD PARTICIPATED IN A 1981 LYNCHING OF A HOMOSEXUAL BLACK MAN HAD EARLIER BEATEN A MAN BECAUSE HE WAS GAY. HATE CRIMES SHARE ESSENTIALLY THE SAME CHARACTER: ALL ARE MOTIVATED BY HATRED AND IGNORANCE AND BY THE PERCEPTION THAT THE TARGETED GROUPS ARE VULNERABLE.

COLLECTING DATA ON HATE CRIMES WHILE IGNORING ANTI-GAY VIOLENCE IS AS INADEQUATE AS COLLECTING STATISTICS ON SEXUAL ASSAULT WITHOUT INCLUDING DOMESTIC VIOLENCE. MR. CHAIRMAN, I HOPE THE SUBCOMMITTEE WILL MARK UP S. 2000 AT THE EARLIEST OPPORTUNITY.

PASSING THE HATE CRIMES STATISTICS ACT ADDRESSES THE PROBLEM OF INCOMPLETE CRIMINAL RECORD KEEPING. PUBLIC OFFICIALS, LAW ENFORCEMENT GROUPS, AND COMMUNITY LEADERS CAN JOIN TOGETHER TO DESIGN AND IMPLEMENT PROGRAMS TO REDUCE PREJUDICE EFFECTIVELY ONLY IF THERE IS DATA AVAILABLE TO MEASURE THE SCOPE OF THESE CRIMES.

IN CLOSING, WE MUST ACT TO PROTECT EACH OTHER FROM HATRED AND DESTRUCTIVE FORCES WITHIN OUR SOCIETY. I URGE THE SUBCOMMITTEE TO SUPPORT S. 2000. MR. CHAIRMAN, THANK YOU FOR ALLOWING ME TO OFFER MY VIEWS.

[From the New York Times, June 13, 1988]

Neo-Nazi Activity Is Arising Among U.S. Youth

By KATHERINE BISHOP

A Neo-Nazi political movement that has produced racially motivated crimes in England has begun to show up among teen-agers in the United States, alarming law-enforcement authorities and civil rights groups.

Both here and in England, the teen-agers, called skinheads, are instantly recognizable with their shaved heads and high-topped leather boots with white laces. But what differentiates the white supremacist skinheads from teen-agers who are merely adopting the fashion is a link to racist rock and roll bands and to some of the country's most virulent hate groups.

This month at least five young men are facing court proceedings around the nation in separate cases of what the authorities believe are hate crimes ranging from intimidation to murder. They are charged with crimes that include the stabbing death of a black transient, threatening a black bus driver who was a witness to vandalism and the terrorizing of a black teacher with the demand that she pay a "nigger tax" to walk the streets.

Group Helps Organize Skinheads

Of particular concern to the authorities is an organization of young racists known as the White Aryan Movement, which includes skinheads and has headquarters in Fallbrook, Calif. It is headed by John Metzger, who is not a skinhead. He is the 20-year-old son of Tom Metzger, a former California Ku Klux Klansman who now heads the White Aryan Resistance.

"We've been working with them for two years," said John Metzger, referring to the skinheads. "I pat myself on the back a little bit for organizing them. We've been able to be an influence and fine tune their perceptions. We're filling a void in their lives."

Spokesmen for the California State Department of Justice and the Federal Bureau of Investigation said those agencies had opened preliminary investigations into the activities of skinhead gangs, focusing on criminal behavior against minorities that might constitute civil rights violations.

Most of their criminal activity thus far has been concentrated in acts like the painting of swastikas and hate-message graffiti and other acts of vandalism against Jewish businesses and synagogues and homes and the businesses of Hispanic and Asian immigrants and blacks.

"Virtually everywhere they are, they're engaged in criminal activity," said Irwin Suall, head of the fact-finding department of the Anti-Defamation League of B'nai B'rith in New York, which estimates that there are approximately 2,000 neo-Nazi skinheads nationwide. "We've also discerned a noticeable amount of anti-Jewish vandalism that's a distinct pattern."

Escalation to Violence

In New York City, Inspector Michael A. Markman, the commander of the Bias Incident Investigating Unit of the Police Department, said the unit had investigated every case since 1980 in which a person has been victimized because of race, religion, ethnicity or sexual orientation. He said that while skinheads have a presence in the city, "We have not experienced skinheads as a hate group."

But in the last year, the skinheads' activity has escalated into acts of violence that have resulted in the lodging of criminal charges in San Jose, Tampa and Chicago.

In the nation's capital, skinheads have been involved in physical attacks against homosexual men since 1986, according to the National Gay and Lesbian Task Force.

In the San Jose case Kenneth Lamar Allen, 20 years old, pleaded guilty to a charge of felony false imprisonment of the black teacher and was sentenced to two years in prison. He was one of a group of about a dozen local skinheads who confronted the woman on the street and, according to witnesses, threatened to lynch her. She was able to escape with the help of passers-by.

In an interview at the time of his arrest last July, Mr. Allen explained the incident by saying: "We are racial and

Groups of 'skinheads' rally to racism and to rock and roll.

she was black. We don't like the black minority or other immigrant races. We're into white supremacy."

Michael Popolizio, the deputy district attorney prosecuting the case, called it "a despicable kind of conduct based on a philosophy of hate."

Mr. Popolizio is also prosecuting a murder case that resulted from a racial incident at a party in the nearby suburb of Campbell last March. Michael Elrod, 19 years old, whose driver's license lists "Skin" as his middle name, is charged in the fatal stabbing of a young white man who the authorities believe attempted to intervene on behalf of a black friend in a confrontation with Mr. Elrod.

Guerin Provinie, the defense attorney for Mr. Elrod, said his client had ended his affiliation with the skinheads before the killing and that the stabbing occurred accidentally when Mr. Elrod, who had been drinking heavily, brandished a knife in self defense.

Equally disturbing problems have occurred in the Los Angeles area, home of the Reich Skinheads, a gang headquartered in the suburb of Chatsworth. Their former leader, Michael Casey Martin, 18 years old, is on four years probation after serving 180 days in jail. He pleaded guilty to terrorizing a Hispanic family.

Others in the group, which is estimated to have about 20 members ranging in age from 14 to 24, are being prosecuted for various crimes, including the attempted murder of a young Hispanic woman.

An important aspect of the neo-Nazi skinhead subculture is the racist rock-and-roll music and much of their recruitment in centered around night spots frequented by teen-agers.

In Chicago a group that calls itself both Romantic Violence and CASH, for Chicago Area Skinheads, maintains ties with London skinheads and sells recordings of the British racist rock group Skrewdriver as well as similar American bands like Final Solution, White Pride and U. S. Chaos.

Ian Stuart, an English skinhead leader and a singer in Skrewdriver, helps publish a monthly bulletin called Blood and Honour, which reports on the activities of various racist rock bands whose music he called "a celebration of being white." In a recent interview in his flat in London's Islington district, Mr. Stuart said he maintains contact with racist groups in the United States, including Tom Metzger's organization and the Ku Klux Klan, through CASH and Romantic Violence.

Skinheads Awaiting Trial

Clark Reid Martell, the 28-year-old leader of Romantic Violence, is in Cook County jail awaiting trial for the assault on a young woman who was attempting to break away from the group. Moses Collins, the Chicago attorney representing Mr. Martell, declined comment on any of the charges pending against his client except to say that he had pleaded not guilty to all the charges.

A close associate of Mr. Martell, William Lienberger, 22 years old, also faces pretrial proceedings in Chicago this month on a felony charge of intimidating a bus driver who witnessed the vandalism of a bus with Nazi graffiti for which Mr. Lienberger is also charged.

The number of violent skinhead crimes against minorities has also been growing in parts of Florida. Today, Dean McKee, 18 years old, is scheduled to stand trial in Tampa for first-degree murder in the stabbing death of a black transient last December. The young man faces a possible death sentence if convicted for what prosecutors believe was a racially motivated crime. He has pleaded not guilty to the charge.

Law enforcement and other groups concerned over racist violence said they take some solace in the fact that the rebellious nature of the skinheads makes them difficult to organize into a mass movement. "This is not the Klan kiddie corps," said Leonard Zeskind of the Center for Democratic Renewal, a group based in Kansas City, Mo., that monitors racist activities.

"The real question is whether they will break out of their subculture and affiliate with non-skinheads. If that happens, we're in for some serious trouble," he said.

Senator SIMON. We thank all of you for your testimony. Mr. Berrill, assuming our subcommittee reports out the bill and I think we will, I understand that one of my colleagues may offer an amendment to delete the portion that applies to lesbians and gays. What would your argument be to those who want to exclude that kind of coverage in this statistics gathering?

Mr. BERRILL. There are several arguments, Senator. The first is that antigay violence is a widespread and critical problem. I refer to the Justice Department's study on bias crime, which I hold in my hand.

This report, which was released on October 7, 1987, states that "the most frequent victims of hate violence today are blacks, Hispanics, South East Asians, Jews and gays and lesbians. Homosexuals are probably the most frequent victims." Now, I don't care if we're the most frequent victims or the second or third most frequent victims. I think what this does is help to confirm what is already widely known and very well documented, that antigay violence is a serious problem.

But there is another issue and it brings to mind Senator Specter's remarks at the opening of this hearing, and I was very disappointed that he made no reference to violence based on sexual orientation in his statement on crime motivated by bigotry. And I was reminded of a statement by the Jewish theologian and holocaust survivor, Eli Wiesel. Dr. Wiesel said "that silence in the face of injustice is never benign or even neutral. Silence in the face of injustice consents to injustice."

I believe that any legislation, any effort to combat hate crimes, that excludes antigay violence sends a dangerous message. And the message is that antigay violence is somehow qualitatively different from, or less reprehensible than, other crimes of bias. Sir, I think that is a terrible message to send to the American people. And I think it's a terrible message to send to law enforcement. I think it's an immoral message to be sending.

But there's another practical matter that I think we can raise in terms of including antigay violence in any effort to collect bias crime data, which is that those who engage in violence against gay people are often the self-same people who engage in violence against people of color and Jews. For example, the neo-Nazi's who fire bombed a gay Christian church a number of years ago in Missouri had previously fire bombed a Jewish community center in Indiana. If people who hate do not discriminate, why should the Congress?

It seems to me that if we don't address this issue, we will reinforce the widespread perception that victimization of lesbian and gay people is acceptable in our society.

So I hope these arguments will be as compelling to your colleagues in the Senate as they were to Members of the House. We were very pleased by the margin by which the House passed this bill and hope the Senate will do likewise.

Senator SIMON. Thank you.

Reverend BERGSTROM. Senator, I'd like to endorse and underscore that part of this panel.

Senator SIMON. Thank you. Mr. Yoshino, if I may ask you a more general question. On the basis of what we know, I think you're correct that there is an increase in crimes against Asian Americans.

What if suddenly you were on this side of the witness table. You were a Member of the U.S. Senate. What should we be doing in addition to gathering information to see that this discrimination comes to an end or is brought to a virtual halt in this country?

Mr. YOSHINO. I think that part—one of the reasons that I had stated, I think, for the instances of greater Asian violence—had to do specifically with the amount of rhetoric that is out there pertaining to things like trade wars, for example, because of the various imbalances of trade and so forth.

And what we see is we see public officials. We see the media. We see labor leaders, as I had mentioned, in industry, very often times going into situations where you have what we term "Japan bashing."

And the offshoot of that is that because distinctions don't get made between what a country—a foreign country like Japan does and they don't make distinctions between Asian Americans or Japanese Americans, that the end result is that Asian Americans then tend to become victimized.

I think what we need to do is to perhaps lower the emotional tone of rhetoric and to deal with situations factually, for example, and to not get into just heated emotional language. That has, I think, a lot to do with the perception that the American public has toward Asians.

Senator SIMON. Thank you. Pastor Bergstrom, you've had a chance to sit back and reflect on where we are in our society. We've made a great deal of progress in my lifetime in, frankly, all of these areas for gays and lesbians, for Asian Americans, for black Americans against anti-Semitism, for Arab Americans. There are other areas as well where I think we have, in past years, made some progress.

But now there does seem to be a rise in violence against various groups and even evidence of problems on college campuses where you would expect reason to prevail. Why is this happening?

Reverend BERGSTROM. I guess a "religious cop-out" answer would be, that's the way we are, and I'm afraid each generation will find that there's something like this that comes along. Some group becomes the object of our own personal hatreds and feelings.

And, therefore, that always has to be opposed, and it seems to me that there are particular reasons in these days, for instance, attacks on the homosexuals because of the AIDS problem. We like to find quick answers for the problem as well as ways to solve it.

And this makes it easy to pick a group, or an object. So I think that particular disease has augmented that kind of attack in our time and in our day.

But I think we will always have it. That's why we have to constantly take a look at what justice departments, the church and the government can do to overcome that and say a strong word that we will not allow this to happen to whatever group it be directed. I don't think it'll ever stop, Senator.

Senator SIMON. All right. And I guess the message is that we always have to be alert and groups that we have not talked about,

here, today—for instance—native Americans also face problems in many communities.

I can remember not too long ago when hostages were taken in Teheran and there were students from Iran here in the United States who faced problems of discrimination. And so I guess the basic message is we have to be alert and maybe collecting data is one way to make sure that we're alert.

We thank all three of you very, very much for your testimony.

Our next witness is Dr. Steven Schlesinger, the Director of the Bureau of Justice Statistics for the Department of Justice.

STATEMENT OF DR. STEVEN SCHLESINGER

Senator SIMON. Dr. Schlesinger, we're very pleased to have you here as a witness and look forward to your testimony.

Dr. SCHLESINGER. Mr. Chairman, and members of the subcommittee, I'm pleased to appear before the Subcommittee on the Constitution and appreciate this opportunity to testify.

We are sympathetic to the desire of the authors of these bills for reliable data to assess the extent of hate crime. We're in agreement that some system should be developed to acquire reliable data on the incidents of crime that manifests certain types of prejudice.

While we would like to be able to support this legislation, we simply cannot do so as it presently drafted. In summary, these bills set out a task which professional statisticians familiar with criminal justice system believe would be extremely difficult and expensive to perform.

In short, the bills direct the Department of Justice to produce data on crimes based upon the motivation of the perpetrator. A factor which is generally legally irrelevant for purposes of establishing guilt.

In more than a decade of experience with the national crime survey, the analysts at the Bureau of Justice Statistics have become keenly aware of the difficulty of classifying crimes based upon the supposed motivation of the offender.

For example, the crime victim may report that a rock was thrown through his or her window. Is this an act of vandalism by someone trying to destroy property? Is it an attempted burglary by someone who intends to enter the property through the window, but is interrupted before the act can be completed?

Or is it an attempt to injure the occupants?

This problem of determining the intent of the offender would become much greater if one attempted to determine whether the event involved religious or racial bigotry.

Consider, for example, a robbery in which the victim reports a racial remark was made. How was the victim, the interviewer, or an analyst at a later stage to know whether the robbery was prompted by racial prejudice or material gain?

In addition to the classification issues involved, measurement of intent would involve the problem of leading questions. It is well known in survey research that some respondents will agree with much that the interviewer suggests in order to please the interviewer, to end the interview more quickly, or for other reasons.

There are two additional aspects of the bill which are troublesome. First, overbreadth. The production of reliable motivational data on any single type of offense would be difficult enough. But the bills as drafted recite a series of nine offenses which are required to be examined on the basis of motivation. Homicide, assault, robbery, burglary, theft, arson, vandalism, trespass, and threat.

Given the enormous difficulties inherent in producing data based upon the motivation of the perpetrator, the list of offenses set out in the bills, is, I believe, unrealistic. Three of the offenses listed are not even included in the FBI's uniform crime reports. That is vandalism, trespass, and threat.

To the extent that these offenses are not reported nationally, even based upon your objective characteristics, it is difficult to imagine how they can be reported based upon the motivation of the perpetrator.

In addition to reaching beyond those offenses with respect to which data are currently collected nationally, the bills include two very common property offenses which occur millions of times each year.

That is burglary and theft.

Most of these crimes go unobserved and are never solved, with the result that in only a small percentage of cases, is there any likelihood that a judgment can be made as to the motivation of the perpetrator.

Indeed, it is all too seldom that law enforcement officials can even establish who the perpetrator was.

As the bill proposes a new statistical reporting endeavor, one would expect that it would begin with a few of the most important offenses. That is murder and non-negligent manslaughter, aggravated assault, and arson.

Once the system was in place and operating as to these offenses, consideration could be given to expanding the array of crimes covered. This would seem to us a prudent approach to a difficult statistical problem.

The fact that the bill mandates a laundry list of offenses to be covered, several of which are not even reported in the uniform crime reports, suggest to us that the bill needs further refinement.

And second—I'll be very brief here—it is unclear as to what characteristics are intended to be captured as those which manifest prejudice. We would hope that what is intended are patent, objective and unambiguous characteristics, but this is far from clear.

In summary, we believe there are severe impediments to collecting meaningful data, based upon what necessarily will be a subjective evaluation of criminal motivation. Notwithstanding these difficulties, I want to stress that every effected component of the Department of Justice will assist you, and your staff, in formulating a workable system of securing the data that we all desire.

I would be happy to answer any questions that you might have.

[The prepared statement of Dr. Steven Schlesinger follows:]

STATEMENT

OF

THE HONORABLE STEVEN R. SCHLESINGER

DIRECTOR OF THE BUREAU OF JUSTICE STATISTICS

OFFICE OF JUSTICE PROGRAMS

U.S. DEPARTMENT OF JUSTICE

Mr. Chairman and Members of the Subcommittee, I am pleased to appear before the Subcommittee on the Constitution. We are sympathetic to the desire of the authors of these bills for reliable data to assess the extent of hate crime. We are in agreement that some system should be developed to acquire reliable data on the incidents of crime that manifests certain types of prejudice. While we would like to be able to support this legislation, we simply cannot do so as it is presently drafted. In summary, these bills set out a task which professional statisticians familiar with the criminal justice system believe would be extremely difficult and expensive to perform. In short, the bills direct this Department to produce data on crimes based upon the motivation of the perpetrator, a factor that is generally legally irrelevant for purposes of establishing guilt.

In more than a decade of experience with the National Crime Survey, the analysts at the Bureau of Justice Statistics have become keenly aware of the difficulty of classifying crimes based upon the supposed motivation of the offender. For example, a crime victim may report that a rock was thrown through his or her window. Is this an act of vandalism by someone trying to destroy property? Is it an attempted burglary by someone who intends to enter the property through the window but is interrupted before the act can be completed? Or is it an attempt to injure the occupants?

This problem of determining the intent of the offender would become much greater if one attempted to determine whether the event involved religious or racial bigotry. Consider, for example, a robbery in which, the victim reports, a racial remark was made. How is the victim, the interviewer, or an analyst at a later stage to know whether the robbery was prompted by racial prejudice or material gain? In certain clear-cut cases, such as a cross burning on a lawn or the painting of a swastika on a synagogue, the racial or religious overtones are quite clear. Most crimes, however, are not of this nature. When crimes of violence involve offenders and victims of different races, religions or ethnic groups, or when churches or synagogues are vandalized or burglarized, it may be impossible in a straightforward, objective manner to determine whether the motive of the crime was prejudice or something entirely different.

In addition to the classification issues involved, measurement of intent would involve the problem of leading questions. It is well known in survey research that some respondents will agree with much that the interviewer suggests in order to please the interviewer, to end the interview more quickly, or for other reasons. Thus, if the interviewer suggested that racial, religious or ethnic prejudice was a possible motive for a crime perpetrated upon the respondent, estimates of this problem are likely to be inflated. This problem of inflated estimates is further aggravated by the fact that the victims of crime, even of less serious property offenses, often bear such enormous ill-feeling toward the offender as to ascribe any number of malicious motives to the criminal. If, on the other hand, the question is not asked directly, the incidence of this problem may be understated because some people will not recognize that the interviewer would like to know about that aspect of the crime.

Two additional aspects of the bills render them unrealistic:

(1) Overbreadth. Production of reliable motivational data on any single type of offense would be difficult enough, but the bills as drafted recite a series of nine offenses which are required to be examined on the basis of motivation: homicide, assault, robbery, burglary, theft, arson, vandalism, trespass, and threat. While the Attorney General may add crimes to the list, he apparently has no authority to subtract from the list.

Given the enormous difficulties inherent in producing data based upon the motivation of the perpetrator, the list of offenses set out in the bills is unrealistic. Three of the offenses listed are not even included in the FBI's Uniform Crime Reports, i.e. vandalism, trespass and threat. To the extent that these offenses are not reported nationally, even based upon their objective characteristics, it is difficult to imagine how they can be reported based upon the motivation of the perpetrator.

In addition to reaching beyond those offenses with respect to which data are currently collected nationally, the bills include two very common property offenses which occur millions of times each year: i.e., burglary and theft. Most of these crimes go unobserved and are never solved, with the result that in only a small percentage of cases is there any likelihood that a judgment can be made as to the motivation of the perpetrator; indeed, it is all too seldom that law enforcement officials can even establish who the perpetrator was.

As the bill proposes a new statistical reporting endeavor, one would expect that it would begin with a few of the most important offenses, e.g., murder and non-negligent manslaughter, aggravated assault, and arson. Once a system was in place and

operating as to these offenses, consideration could be given to expanding the array of crimes covered. This would seem to us a prudent approach to a difficult statistical problem. The fact that the bill mandates a laundry list of offenses to be covered, several of which are not even reported in the Uniform Crime Reports, suggests to us that the bill needs further refinement.

(2) Vagueness. It is unclear as to what characteristics are intended to be captured as those which "manifest prejudice." We would hope that what is intended are patent, objective and unambiguous characteristics, but this is far from clear.

In summary, we believe there are severe impediments to collecting meaningful data based upon what necessarily will be a subjective evaluation of criminal motivation. Notwithstanding these difficulties, I want to stress that every affected component of the Department of Justice will assist you and your staff in formulating a workable system of securing the data we all desire.

I would now be happy to answer any questions you may have.

Senator SIMON. We have a vote over in the Senate floor right now. We'll take a 10 minute recess. I'll be back with some questions Dr. Schlesinger.

Dr. SCHLESINGER. Thank you.

[A brief recess was taken.]

Senator SIMON. Dr. Schlesinger, the hearing will resume. Dr. Schlesinger, how long have you been heading this particular division?

Dr. SCHLESINGER. I've been the Director of the Bureau of Justice Statistics for about 5½ years.

Senator SIMON. Is a decision like this—one that you recommended to those heads of department—or is this one that came down from above?

Dr. SCHLESINGER. It's a matter that's been discussed. We discussed it among ourselves at the Bureau of Justice Statistics. We've had discussions with the FBI, with the Community Relations Service. It's been a matter of discussion within the department.

Senator SIMON. And within the department—does the Director of the FBI join you in feeling this would be a major problem?

Dr. SCHLESINGER. The position that I have presented today is the position of the Department of Justice and it is one that is endorsed by the FBI.

Senator SIMON. You said that after the Abt Associates did a study on this whole question of bias crime that one of their conclusions was that we should be collecting data on this. Do you have any reflections on that—that report that was commissioned by the Justice Department that came to conclusions that are obviously different from yours?

Dr. SCHLESINGER. Well, that report was funded by the National Institute of Justice. And I would be glad if there are specific questions, to refer those questions to the National Institute.

I am familiar with the report and the report does list a number of criteria, or guidelines, that could be used to determine whether there is a hate crime or not, whether one has a hate crime and it seemed to me as I read those guidelines that the application of the criteria in the Abt report in many cases, would be quite difficult, and quite subjective.

One criterion was common sense. Well that I think is the clearest one. Language used by the suspect is another. That seems much less clear. If a racial epithet is used in a fight, that may, or may not, demonstrate that the fight was the result, or part of, a hate crime.

The severity of the attack, is there mutilation involved, that is, I think, a difficult one. Lack of provocation is another, previous history of similar incidents in the area.

And finally, the absence of any other apparent motive, for example, battery without robbery, and it struck me as I was reading those guidelines, or criteria, that, as I indicated, it would be difficult using those criteria to make judgments about whether one has a hate crime or not. It would leave a certain amount open to subjective judgment.

Speaking as the head of the Bureau of Justice Statistics, I believe that when the Bureau of Justice Statistics, for example, releases statistics, we must believe, and we always do believe when we re-

lease statistics, that they are the most reliable that are possible. That the statistics are, in fact, reliable and accurate.

And the fundamental difficulty that we have at the Bureau of Justice Statistics is that given the difficulties I outlined in my testimony, I'm not in a position now to tell the committee that we would have confidence that statistics released would be the kind of reliable statistics that Congress and the American public have a right to expect.

Senator SIMON. Individuals constantly make judgment calls, including the police—I just made a judgment call on the floor of the Senate, 5 minutes ago.

It seems to me that there are other areas that are not as clear cut as murder, and some other things, but where, I think, some common sense judgment calls can be made by local police around the nation.

If I sense the tenor of this committee in the Senate correctly, I think we are going to move on this legislation and probably have enough votes to override a Presidential veto, if that should come about.

We do not want to pass out legislation that is unworkable, from your point of view. So, as you look at this legislation, any suggestions you have for making it more workable, from your point of view would be helpful. The bill I've introduced, for example, takes effect immediately. Maybe we should have a time period before it takes effect.

There may be other changes that should be made. We're willing to listen to those. But I think the tenor of what you have heard here today, in a very real sense, the tenor of the Senate today is that we ought to be collecting this data and finding out a little more of where we are and where we ought to be going, so any suggestions you will have along that line, would be welcome.

Dr. SCHLESINGER. If I—I would like to make a couple of suggestions—that if I could comment on one thing you said, Senator.

I think there clearly are cases in which common sense will give us the answer. For example, my own synagogue in Silver Spring had swastikas painted on a good bit of it, at a time when my son, who was 4 or 5 years old, at the time, was in the nursery school, and there was concern expressed about the children in the nursery school.

So there are—there are areas, there are crimes where common sense, I think, will be very helpful. But I am concerned about a broader array of crimes.

I'm concerned about fights and brawls in which an epithet would be exchanged. I'm concerned about a rock coming through a window in a racially troubled neighborhood, where that may, or may not be, a hate crime.

I'm concerned that, as I mentioned in my testimony, that some of the crimes that are in the bills are not the subject of data collection, either by the Bureau of Justice Statistics or the FBI. We don't collect data about those crimes at all, not to mention the motivation of the perpetrator.

I'm concerned about the millions of property crimes that take place where—where the clearance rate, the rate at which we catch

the offenders is so low that not only can we not make a determination about the motivation, we don't know who did it.

To come back to your question directly, I think there are some things that would help. First, I believe it would be helpful to narrow the crimes, as I indicated before.

I think it would also be helpful if we could have guidance, either in legislation, or in legislative history, guidance in any form from the Congress as to how we might go about the business of determining what is a hate crime.

What guidance are we going to give if the data is going to be collected, in the first instance, by law enforcement agencies. What guidance do we give to the 16,000 or more than 16,000 law enforcement agencies as to when to check off the box, as one of the witnesses said.

What guidance do we give to investigators as to what criteria they should use in determining when there is a hate crime.

I might also mention that this subject has been one that has been seriously discussed within the department and there is a proposal within the Department of Justice, that has been surfaced to the staff of this committee, and to staff on the House side, involving the Community Relations Service. If you desire, I'd be glad to talk about that now, or talk about it further with your staff at another point.

Senator SIMON. I think we can—you can discuss it with the staff at another point, at this point. I would add, I think the legislation ought to be broad enough so that within the department you can adopt regulations that meet some of the problems.

But it does seem to me that if Mr. Schwartz over here with ADL can collect data on this kind of a problem, we ought to be able to do it in the Department of Justice. I think it's an important service that is needed in this nation.

If I can just use a very practical example. We recently had in the city of Chicago, some anti-Semitic expressions that I think were repugnant to a great many people.

But I think it would be helpful to find out, if, following those kind of statements, there is a rise in the kind of problems we're talking about here. I think that's the kind of service the Justice Department ought to be rendering. But, in any event, we thank you for your testimony, Dr. Schlesinger. Thank you for being here.

Dr. SCHLESINGER. Thank you, Senator.

Senator SIMON. I would also like to insert into the record at this point, the report of the Abt Associates that was made for the Justice Department. One is a draft prepared on October 5, 1987, and the other is the final report prepared in May 1988.

[The prepared information of the Abt Associates follows:]

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Research Application Review

The Response of the Criminal Justice System to Bias Crime

Peter Finn
Taylor McNeil

October 5, 1987

Submitted to

The National Institute of Justice
U.S. Department of Justice

Contract No. OJP-86-002

An Equal Opportunity Employer

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APPENDIX A Law Enforcement Interview Guide

APPENDIX B Additional Criminal Justice Agencies That Target Bias Crime

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The Response of the Criminal Justice System to Bias Crime
An Exploratory Review

Peter Finn
Taylor McNeil

1.0 INTRODUCTION

1.1 Statement of the Problem

Bias crimes, or hate violence, are words or actions designed to intimidate an individual because of his or her race, religion, national origin, or sexual preference. Bias crimes range from threatening phone calls to murder. These types of offenses are far more serious than comparable crimes that do not involve prejudice because they are intended to intimidate an entire group. The fear they generate can therefore victimize a whole class of people. Furthermore, our country is founded on principles of equality, freedom of association, and individual liberty; as such, bias crime tears at the very fabric of our society.

For a variety of reasons (see Section 3.1 below), there are no accurate data regarding the number of bias crimes committed each year. However, there is plenty of documentation to suggest that the problem is widespread, and considerable evidence that it is increasing. Bias crimes may also be turning more violent: compared with the past, a larger proportion of incidents appear to involve personal injury as opposed to vandalism. Explanations for these changes include increased economic competition from minorities, visibility of gay men, ethnic neighborhood transition, and a perceived decrease in government efforts to prevent discrimination in education, housing, and employment.

Most observers believe that fewer incidents are being committed by members of organized hate groups, like the Ku Klux Klan, but many more are being perpetrated by individuals or small groups of people acting on their own. However, many of these offenders may be encouraged by the rhetoric of white supremacist organizations, and by the failure of most community and national leaders to speak out forcefully against these groups.

At least half the people arrested for bias crimes are teenagers and young adults between the ages of 16 and 25. For example, arrest records document that 70 percent of bias crimes in New York City in the past seven years were committed by youths under 20 years of age.

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The most frequent victims of hate violence today are blacks, Hispanics, Southeast Asians, Jews, and gays and lesbians. Homosexuals are probably the most frequent victims. Verbal intimidation, assault, and vandalism are the most commonly reported forms of hate violence.

For the most part, the criminal justice system--like the rest of society--has not recognized the seriousness of the hate violence problem. Police officers, prosecutors, and judges tend to regard most incidents as juvenile pranks, harmless vandalism, private matters between the involved parties, or acceptable behavior against disliked groups. Many criminal justice system personnel do not believe that hate violence exists in their community. Others are aware it exists but are reluctant to publicize the fact for fear their communities will be branded as racist or hotbeds of violence. Lack of police and prosecutor attention to bias crime often reflects the attitudes of local residents who do not want minorities in their community.

Because of the widespread and serious nature of hate violence and the inability of most criminal justice agencies to address the problem adequately, the National Institute of Justice solicited an exploratory review to (1) identify effective or promising steps that some criminal justice agencies have already taken to combat the problem, (2) identify the principle issues involved in assisting other police agencies and prosecutor offices to take effective action, and (3) review previous research and other resources in the field. The following chapters address each of these objectives. The introduction concludes with a list of the respondents who, in addition to program documentation and available previous research, provided the information on which this report is based.

1.2 Research Methods

We interviewed forty respondents. (See Exhibit 1.) Twenty-one were representatives of the criminal justice system, including eleven associated with law enforcement, five with prosecutor offices, and five with the National Criminal Justice Association. Fifteen respondents represented constituency organizations, including groups representing minorities that are often victims of hate violence (e.g., the National Association of Colored People, the National Gay and Lesbian Task Force, and the Anti-Defamation League), and generic organizations devoted to preventing hate violence (e.g., the National Institute Against Prejudice and Violence, Klanwatch). Four respondents were researchers who have conducted studies related to hate violence.

Respondents were identified initially through recommendations from the National Institute of Justice, literature obtained from a library search of pertinent

Exhibit 1

Study Respondents

Criminal Justice System Respondents
(n=21)

Larry Broadbent
Undersheriff
Kootenai County Sheriff's Department
Coeur D'Alene, Idaho

Michael Lennon
Commander
San Francisco Police Department
former Precinct Captain of Mission District

Michael Markman
Inspector and Commanding Officer
Bias Incident Investigating Unit
New York Police Department

William Johnston
Sergeant and Unit Chief
Community Disorders Unit
Boston Police Department

Kenneth Carey
Inspector
Nassau County (New York) Police Department
Coordinator of Bias Incident Investigations

Elizabeth Care Long
Detective
Intelligence Unit
Baltimore County (Maryland) Police Department

Edgar Richards
Major and Director
Bureau of Community Services
Pennsylvania State Police

Chuck Wexler
Director
Professional Development Division
International Association of Chiefs of Police
former staff, Boston Police Department Community Disorders Unit

Elsie Scott
Executive Director
National Organization of Black Law Enforcement Executives (NOBLE)
Washington, D.C.

Darrel Stephens
Executive Director
Police Executive Research Forum
Washington, D.C.

Don Peri
Research Analyst
California Department of Justice
Director, Racial, Ethnic, and Religious Crimes Project

James Hubert
Assistant District Attorney
Chief, Anti-Bias Bureau, Queens County (New York) District Attorney's Office

Maria Lopez
Assistant Attorney General
Civil Rights Division
Massachusetts Attorney General's Office

Michael Joyce
Assistant District Attorney
Director of District Courts, Suffolk County (Massachusetts) District Attorney's Office

Charles Hely
Assistant District Attorney
Chief, Civil Rights Division, Norfolk County (Massachusetts) District Attorney's Office

Jacqueline Schaefer
Liaison to the Gay and Lesbian Community
Manhattan District Attorney's Office

David Coldren
Executive Director
Illinois Criminal Justice Information Authority

William Kelley
Director, Georgia Criminal Justice Coordinating Council

Peter Haynes
Executive Director
Arizona Criminal Justice Committee

G. Albert Howenstein
Executive Director
California Office of Criminal Justice Planning

Patrick Hamilton
Director
Massachusetts Committee on Criminal Justice

Exhibit 1
(continued)

Constituency Organization Representatives
(n=15)

Joan Weiss
Executive Director
National Institute Against Prejudice and Violence
Baltimore, Maryland

Trish Donahue
Criminal Justice Specialist
Human Rights Resource Center
San Rafael, California

Patricia Clark
Executive Director, Klanwatch
Southern Poverty Law Center
Montgonery, Alabama

Kevin Berrill
Director, Anti-Violence Project
National Gay and Lesbian Task Force
Washington, D.C.

David Wertheimer
Executive Director
Gay and Lesbian Anti-Violence Project
New York, New York

Diane Christensen
Executive Director
Community United Against Violence
San Francisco

Nancy Hunter
Director, Gay/Lesbian Rights Project
American Civil Liberties Union
New York, New York

Alan Schwartz
Director, Research Department
Anti-Defamation League of B'nai B'rith
New York, New York

Althea Simmons
Director, National Association for the Advancement of Colored People
Washington, D.C.

Dr. Samuel Myers
Executive Director
National Association for Equal Opportunities in High Education
Washington, D.C.

Margaret Fung
Executive Director
Asian-American Legal Defense and Education Fund
New York, New York

Joanne Anderson
Director of Community Relations
Maryland Human Relations Commission
Baltimore, Maryland

Vernon Manley
Director, New York City Bias Response Team
New York City Human Rights Commission

Wallace Warfield
Director, U.S. Department of Justice
Community Relations Service Office,
Washington, D.C.

Fred Persily
private consultant to Contra Costa County (California)

Researchers
(n=4)

Gary Marx
Massachusetts Institute of Technology

David McKirnen
University of Illinois at Chicago

Albert Reiss
Yale University

Wesley Skogan
Northwestern University

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articles and reports (see below), and our own knowledge of agencies and organizations active in the field. Out initial respondent list was supplemented with additional names provided by our interviewees. We selected respondents who administer law enforcement or prosecutor programs that currently target bias crime, or who were the most knowledgeable official within each constituency organization we contacted. The average interview lasted slightly over an hour. Appendix A provides the interview guide used with the law enforcement respondents.

We also collected available written materials from each respondent. These documents were supplemented by a library search of pertinent articles and reports. The results of the literature review may be found in Section 4.1, Previous Research, in the last chapter of the report.

Although we conducted no formal statutory review, we obtained relevant legislation from several respondents and benefitted from statutory reviews conducted by the National Institute Against Prejudice and Violence, the Washington Lawyers' Committee for Civil Rights Under Law, and the Anti-Defamation League. (See Section 4.1.3 in the last chapter for a description of each of these reviews.)

Finally, we described two follow-on activities the National Institute of Justice could undertake in the area of bias crime. These activities are described in Appendix C.

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2.0 CURRENT PRACTICES

Several law enforcement agencies have devoted considerable resources to combatting hate violence. A number of other police and sheriffs' departments are just beginning to address the problem--the National Organization of Black Law Enforcement Executives found that 15 of 41 agencies surveyed reported they had a special unit responsible for reporting or investigating bias crime. By contrast, although many individual prosecutors have devoted extra resources to isolated cases of bias crime, the small groundswell of targeted activity that is occurring in a number of law enforcement agencies does not appear to be taking place in prosecutor offices. Whereas the names of many law enforcement agencies active in targeting bias crime came to our attention, neither the literature nor our respondents identified more than a few prosecutor offices that make bias crime a priority. This discrepancy between law enforcement and prosecutor activity is disturbing, because police may stop arresting suspects for bias crimes if cases are not given equally aggressive prosecutorial attention.

While most states have now passed legislation directed at bias crime, the types of statutes enacted vary in their provisions and potential effectiveness. One type of statute--state civil rights acts--has been largely avoided despite its documented success in Massachusetts. Below is a summary of current legislation that addresses hate violence. Brief descriptions of the major law enforcement and prosecution efforts to make bias crime a priority follow.

2.1 Statutes

Although we conducted no statutory review ourselves, we obtained detailed information regarding pertinent legislation from statutory reviews conducted by the Anti-Defamation League, the Washington Lawyers' Committee for Civil Rights under Law, and the National Institute Against Prejudice and Violence (see Section 4.1.3 in the last chapter). The Institute's review of federal and state law is current through 1985. Some of the more recent legislation was described or sent to us by our respondents.

A synthesis of the information from these sources suggests that seven distinct types of statutes or statutory provisions have been enacted that specifically address bias crime.

(a) A number of states have <u>made specific acts of intimidation criminal offenses</u>. The most common prohibited acts are property damage to places of religious

worship and cemeteries (21 states and the District of Columbia), cross burning (6 states), anti-mask or hood laws (11 states), and the formation of private paramilitary organizations (21 states).

(b) Most states have enacted statutes proscribing acts that are already criminal offenses but specifically prohibiting these acts when they are motivated by the victim's race, religion, or national origin. These statutes may target assault, harassment, intimidation, or destruction or defacement of property. Almost none of these statutes include gay and lesbian victims of violence. However, in 1984, California and Seattle passed the first bias crime laws that specifically include protection for gays and lesbians. In California, an amendment added "sexual orientation," as well as "age" and "disability," to an existing law that already established the right to be free from violence due to race, religion, sex, and national origin. Attempts to enact bias crime legislation that includes gays and lesbians have been defeated in Oregon, Washington, Minnesota, and Illinois.

(c) Several states have enacted statutes that impose heightened penalties for criminal conduct when motivated by religious or racial bias, typically by upgrading the criminal status of a bias crime act from a misdemeanor to a felony, or to a higher level misdemeanor. The Maryland legislature upgraded from misdemeanors to felonies cross burning and other forms of terrorism, and increased the penalties accordingly. Assault and battery is a misdemeanor in Massachusetts; however, if bias is involved, the offense is a felony. Under Oregon's intimidation statute, a person who commits criminal mischief in the third degree is guilty of intimidation in the second degree if he or she was motivated by bias.

(d) At least three states have criminal statutes which broadly proscribe interference with a person's civil rights. The Massachusetts Civil Rights Act of 1979 prohibits intentional, forceful conduct; a violation of the statute can result in incarceration for up to ten years if even unintentional bodily injury results. Connecticut's law prohibits discriminatory practices; however, unless the behavior is intentional and committed while wearing a mask or hood, or if the violation results in property damage in excess of $1,000, the violation is only a misdemeanor. A South Carolina civil rights statute focuses only on conspiracies to interfere with civil rights, rather than conduct by individual offenders.

(e) While most states have generic civil remedies for torts, Idaho, Illinois, Massachusetts, New York, Oregon, Rhode Island, Washington, and some localities (e.g., Montgomery County, Maryland) provide a civil cause of action specifically to

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individuals whose civil rights are violated. Comprehensive remedies, including damages for emotional distress, punitive damages, and costs and attorneys' fees are expressly allowed by some of these statutes. In most instances, these statutes authorize civil action only for acts of violence. However, Massachusetts' Civil Rights Act authorizes civil action for threats, intimidation, coercion, or attempts to achieve such results. The Oregon statute makes parents or legal guardians of unemancipated minors liable for judgments of up to $5,000 for damage caused by the minors; Massachusetts' statute has a similar provision with no dollar limit. Most states have a statute which allows an injured party to recover on a strict liability basis from the parents of a minor for the child's tortious acts, but the statutes cited above expressly include bias crime within this right.

(f) Massachusetts' Civil Rights Act of 1979 is unique in permitting the Attorney General to bring injunctive relief on the victim's behalf. (It should be clear that the act provides for three actions. First, the criminal section of the act (General Laws Chapter 265, Section 37) makes it a misdemeanor to willfully injure, intimidate, or interfere with, or attempt to do so, any person in the free exercise of any right or privilege secured by the constitution or laws of the state or the federal government. With bodily injury, the offense is a felony. Violations of this section of the act are prosecuted in District Court as criminal offenses. The civil portion of the act (General Laws Chapter 12, Section 11H) provides for two remedies: authorization for victims to sue civilly for damages by hiring their own private attorney, and authorization for the Attorney General to file for a civil injunction to restrain the future behavior of the offender. The Attorney General may not sue for damages, however; only the victim may do so. The entire statute is currently being challenged for being overly broad--it makes virtually any crime against an individual a violation of his or her civil rights.)

(g) A few states have enacted legislation mandating the collection of bias crime related data. Maryland enacted the first and most comprehensive statute in 1981. The law requires the State Police to collect information on hate violence incidents from all local police agencies and the State Fire Marshall, and to provide monthly summaries of these reports to the Maryland Human Relations Commission, which analyzes and disseminates the findings. Pennsylvania's Ethnic Intimidation and Statistics Collection Act of 1986 provides that local and state law enforcement officials report bias related incidents and crimes on a monthly basis to the Pennsylvania State Police Bureau of Community Services. Connecticut enacted a law this year that requires the State Police to monitor, record, and classify all bias crimes starting July 1,

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1988. The statute requires the State Police to develop a procedure for conducting these activities and a plan for the dissemination of the data. A state Ad-Hoc Committee on Bias Incident Reporting in New Jersey is developing a statewide system of tracking bias incidents. Currently, the Uniform Crime Reporting Unit of the State Police is taking thirteen data elements identified by the committee and placing them into a Uniform Crime Report format. Local police departments responsible for reporting bias incidents through the Uniform Crime Report will be trained in proper use of the new crime reporting process. The California Attorney General's Commission on Racial, Ethnic, Religious, and Minority Violence has recommended statewide hate crime reporting, and the state has conducted a pilot study to determine feasible procedures for doing so.

2.2 Law Enforcement Agencies

The following police and sheriff's department have made bias crime a priority.

- Boston Police Department. In response to growing problems of racial violence, in 1978 the Boston Police Commissioner established a Community Disorders Unit with responsibility for investigating bias crimes, seeking complaints, and assisting in their prosecution. Violence against gays and lesbians has since been made the unit's responsibility as well. The unit has two sergeants, 11 other sworn officers, and four interpreters. Intensive investigation may include ride-alongs with victims, surveillances, rapid response operations (e.g., hot lines and neighborhood participation), going door-to-door to interview potential witnesses, and undercover operations--on one occasion the unit rented an apartment, and two black police officers decoys pretending to be married moved in to identify the source of racial harassment of several minority families who had taken up residence in the previously all-white housing project. Surveillance and patrols in victimized neighborhoods continue after a case is completed to help prevent retaliation. In most instances, the unit pursues cases criminally and civilly (under the state's Civil Rights Act of 1979). Through 1986, the unit had filed 155 charges, including 93 criminal charges and 62 civil charges, with a reported conviction rate of nearly 90 percent. Outreach is conducted with non-English speaking residents, including the preparation of posters in foreign languages urging victims to report bias crimes and a program to

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train bilingual school children to act as interpreters between adult minority victims and the police. Data are collected and computerized on the perpetrator's age and race, as well as the location and type of incident.

- New York City Police Department. In December 1980, the New York City Police Commissioner formed a Bias Incident Investigating Unit to monitor and investigate racially, religiously, and ethnically motivated acts. In July 1985, the unit's jurisdiction was expanded to include hate violence against gays and lesbians. The unit has three sergeants, sixteen investigators, and four police administrative aides. Line officers are required to report suspected bias incidents to precinct commanding officers or duty captains, who confirm the motivation and then report the crime to the Bias Unit. Borough commanders are also notified, and must visit each victim. Police general orders provide detailed procedures for officers to follow in bias crime cases. The unit trains training officers who, in turn, make seven one-hour visits a year to each of the 75 precincts to provide similar in-service training. The unit is currently computerizing its data base.

- Baltimore County (Maryland) Police Department. This county law enforcement agency has detailed written policies and procedures that require line officers to report immediately crimes that appear to be motivated by ethnic, religious, or racial bias to community relations officers stationed at each of eleven precinct stations. Precinct commanders are also notified and charged with supervising the response and visiting the victim. Finally, the Intelligence Division is notified in order to verify the bias nature of the crime through review of the incident report and, if necessary, investigating the incident on its own. The Intelligence Division also notifies the Baltimore County Human Relations Commission, which activates its own victim assistance efforts that complement those of the community relations officers. Crime laboratory response is available 24-hours-a-day for even misdemeanor-level bias crimes; every incident is photographed; and grafitti are removed by the end of the day by the property owner or police. As required by state statute, the department collects data on bias crime, which it submits to the State Police. All recruits and officers are given academy and annual in-service training in recognizing bias crime and written guidelines for making the

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determination. Intelligence Division officers teach about bias crime in the public schools and attend community meetings to encourage reporting of all hate violence activity.

- Kotenai County (Idaho) Sheriff's Department. The Sheriff's Department has targeted hate violence since 1982. Staff training and extensive intelligence gathering efforts are directed in particular at the activities of the Aryan Nations, which has its national headquarters in the county. The sheriff co-founded the Interstate Task Force on Human Relations, which includes Kootenai and Spokane (Washington) counties. Members represent law enforcement, human rights commissions, the U.S. Attorney in Spokane, clergy, and the public schools. The department is also the co-founder of Kootenai County Task Force on Human Relations, which provides victim support, public education, monitoring of incidents committed by juveniles, and school-based education. The undersheriff is currently forming a Northwest Coalition Against Malicious Harassment consisting of law enforcement executives, church officials, municipal, county and state officials, and school superintendents in Idaho, Oregon, Washington, Minnesota, and Wyoming. The coalition will establish uniform crime reporting of hate violence activity in all five states.

- Nassau County (New York) Police Department. This agency has designated a command level administrator as Coordinator of Bias Incident Investigations; he supervises the investigation of all bias-related cases and acts as a liaison to community organizations. He receives information on new cases the next business day and discusses each case with the investigating detectives on a regular basis to suggest further steps and monitor progress. The Coordinator is also active in public education efforts to encourage reporting of bias crimes. He has initiated education programs for students and school officials, including development of a Students and Teachers Against Prejudice (STOP) program for seventh graders. The department's Police Anti-Vandalism Program (PAVE) brings juvenile offenders and their parents together to discuss the serious nature of property destruction and the legal and civil penalties that will result if it continues.

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- San Francisco Police Department. While the San Francisco Police Department has no special bias crime unit or coordinator, the Mission District police station has made a concerted effort to address violence against gays among the predominantly upper-middle-class homosexual population of the Castro District. A succession of district captains has worked closely with Community United Against Violence (CUAV), a local gay rights organization concerned with community crime. Police provide CUAV with all gay-related police reports so that the organization can assist victims. In turn, CUAV staff encourage victims to report crimes to the police. CUAV may arrange for a gay officer to take the complaint and, on occasion, have asked an officer to come to CUAV's facility to take the report. The district police captains have invited reporters from the gay press to do ride-alongs and encouraged them to publicize how gays and lesbians can prevent victimization. By openly working with the gay community, the captains have influenced gay officers to transfer to the Mission District (30 of 150 officers in the district are openly gay) and induced uncooperative officers to transfer elsewhere. Mission District police urge deputy district attorneys to prosecute cases that might otherwise be dropped. Gay community representatives give lectures at classes for lieutenants up for promotion, and at the police academy.

A number of other law enforcement agencies are just beginning to target bias crime, or have been making efforts that have not been well reported. Brief mention of some of these departments is provided in Appendix B.

2.3 Prosecutor Offices

While we were able to locate a number of law enforcement agencies that have specifically organized to address bias crime, we found prosecutor offices with similar targeted efforts in only two jurisdictions--New York and Massachusetts (although the San Francisco District Attorney's Office has taken some steps in this directions--see Appendix B, Additional Criminal Justice Agencies That Target Bias Crime). Of course, it is possible that many individual prosecutors of whom we are unaware vigorously prosecute bias crimes that are brought to their attention.

The active prosecutor offices in New York and Massachusetts we learned about are described briefly below.

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- Queens County (New York) District Attorney's Office. In April of this year, the Queens County District Attorney established an Anti-Bias Bureau staffed with four assistant district attorneys. The Bureau works through the Police Department's Bias Incident Investigating Unit (see above). Typically, the police Bias Unit contacts the Anti-Bias Bureau about a case by phone or by beeper (24-hours-a-day if the incident is very serious). If advisable, a bureau prosecutor will go on-scene or to the precinct stationhouse to interview witnesses. The bureau verifies that the incident is bias related. However, when considerable investigation has been necessary to determine whether a case is bias motivated, the bureau will keep the case even if it turns out not to involve hate violence because of the time it has already invested in the case. The Anti-Bias Bureau uses written protocols to determine whether an incident is bias related, and written procedures for handling cases. Currently, it has a caseload of 50 cases, about 60 percent of which are misdemeanors and 40 percent felonies. Cases are handled vertically. Records are kept on the number of incidents reported, the number resulting in arrest and prosecution, and their disposition.

- Massachusetts Attorney General's Civil Rights Division. The Civil Rights Division handles hate violence that violates the Massachusetts Civil Rights Act of 1979. Ninety percent of the division's cases under the act come from the Boston Police Department's Community Disorders Unit (see discussion above). Cases forwarded by this unit are not further investigated because of the detectives' track record in correctly determining whether a case is bias related; however, the division sends out its own investigators to confirm the cases referred by other police departments. Prosecution of violators of the Civil Rights Act is facilitated by having to prove guilt by a preponderance of the evidence rather than beyond a reasonable doubt. When the Civil Rights Division decides to obtain injunctive relief authorized by the act, the procedure is as follows. The offender is given notice to attend a Superior Court hearing at which an assistant attorney general will request a temporary injunction from the judge. In about one-third of the cases, the prosecutor obtains an ex parte temporary restraining order valid for ten days to cover the period between the incident and the hearing. If the defendant wishes to be represented at

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the hearing, he or she has to hire a private attorney because the case is a civil matter. At the hearing, a temporary injunction is typically issued. Following this, the prosecutor and defendant typically negotiate a consent agreement in which the defendant agrees to restrain from certain behaviors; this consent agreement in effect becomes a permanent injunction. If the defendant refuses to accept a consent agreement, or if the defendant contests the preliminary injunction, a date is set for another hearing at which the temporary injunction is made permanent. Violation of the injunction is a criminal offense for which sentence can be imposed and carried out within hours. Injunctive relief has been used in 35 cases since 1982 involving 118 defendants--including juveniles as young as 13 years old. There have been 12 violations, with a typical sentence of 10 days in jail. Civil Rights Division staff provide new recruit and in-service training at the request of local police departments. Staff explain the provisions of the Civil Rights Act, elements of proof, and the importance of charging suspects with violating the act.

- Suffolk County (Mass.) District Attorney's Office. As noted above, the Massachusetts Attorney General's Office works closely with the Boston Police Department's Community Disorders Unit on violations of the civil provisions of the state's Civil Rights Act. Because Boston is located in Suffolk County, the Suffolk County District Attorney works closely with the Community Disorders Unit on criminal violations of the act. The Community Disorders Unit telephones either the director of the nine district courts in the county or his first deputy before forwarding a case to confer on whether there is enough evidence to file the case as a civil rights violation. The director or first assistant deputy then assigns the case to the prosecutor in charge of the district court in whose jurisdiction the incident occurred. Five to ten cases are filed each month. Crimes against gays and lesbians are considered bias crimes. The office has made several presentations to community groups to make clear that it will prosecute hate violence cases and to encourage reporting of incidents.

- Norfolk County (Mass.) District Attorney's Office. The Norfolk County District Attorney has established a Civil Rights Unit comprised of a unit director, two other prosecutors, and three support staff. The unit

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investigates and prosecutes violations of the criminal provisions of the state Civil Rights Act. Unit staff have trained a number of police departments in the county in how to recognize bias crimes and conduct effective investigations. The unit has drafted a model civil rights policy for police departments in the county that has so far been adopted by a few police agencies. The unit has worked with each police agency in the county to designate a Civil Rights Officer to serve as the police department's liaison to the Civil Rights Unit. Under the terms of a formal Memorandum of Agreement, the Massachusetts Commission Against Discrimination promptly refers to the unit any evidence of possible criminal violations of the Civil Rights Act and other anti-discrimination statutes in the county.

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3.0 ISSUES AND NEEDS

Below we identify the principal unresolved issues that need to be addressed before the criminal justice system can understand the nature and magnitude of the problem of bias crime and institute appropriate remedial measures to combat bias crime effectively. These issues concern data that should be collected and reported, and how this should be done; steps that law enforcement agencies and prosecutor offices should take to target hate violence; and statutes that are needed to facilitate an effective response to the problem. In addition to identifying the issues, we report how they are currently being addressed by criminal justice system agencies across the country that have already made bias crime a priority.

3.1 Data Collection and Reporting

One of the most pressing considerations related to bias crime is the need for adequate data. Accurate and complete data are needed to understand the severity, pattern, and location of bias crimes. With improved data collection, law enforcement officials and prosecutors will be better able to make appropriate resource allocation decisions and to target specific neighborhoods or organizations for special attention.

Currently, there is no comprehensive national data collection effort and relatively few serious efforts at the local level. Only Maryland and Pennsylvania have statutes in effect that mandate the reporting of bias crimes by local police departments. Most other law enforcement agencies do not keep separate records of bias crimes--for example, they report a cross-burning as arson or a swastika painted on a synagogue as vandalism. While several private organizations tabulate bias incidents, only one national organization, the Anti-Defamation League, has a formal reporting system (thirty regional offices use a standard report form to forward data to the national headquarters).

A deficiency with all data collection efforts is underreporting. Many victims of bias crimes do not report incidents because they distrust the police, feel that the incident is too minor to report or that the police cannot do anything about it, have a language barrier, fear retaliation by the offender, or--in the case of gays and lesbians--fear public exposure.

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Four key issues must be resolved for any data collection effort to succeed: defining bias crime, identifying the data elements to collect, designing a data collection system (e.g., forms and routing procedures), and selecting the most appropriate group or groups to collect, analyze, and disseminate the data.

The starting point for data collection efforts should be establishing an accurate and workable definition of bias crime. Otherwise, no group can provide reliable and valid reports of bias incidents. Furthermore, if different jurisdictions define bias crime differently, any multi-jurisdictional comparison of data will be misleading. For example, three counties in New York State collect bias incidents, but all define the crime differently. (Of course, even with identical definitions, some comparability problems may remain because of the considerable difficulty often involved in identifying motivation and, equally serious, because of differences between jurisdictions in levels of crime reporting.)

A working definition developed by the California Racial, Ethnic, and Religious Crimes (RERC) Project identifies a reportable bias crime as "any act to cause physical injury, emotional suffering, or property damage, which appears to be motivated, all or in part, by race, ethnicity, religion, or sexual orientation." The National Organization of Black Law Enforcement Executives defines a racially or religiously targeted incident that warrants police investigation as "an act or a threatened or attempted act by any person or group of persons against the person or property of another individual or group which may in any way constitute an expression of racial or religious hostility. This includes threatening phone calls, hate mail, physical assaults, vandalism, cross burnings, firebombings and the like." The International Association of Chiefs of Police also uses the definition developed by NOBLE. Current statutes in Maryland and Pennsylvania do not specify the reportable crimes in this detail, nor do they include sexual orientation as a motivating factor. These differences in definition and level of specificity highlight some of the problems of defining bias crime.

Closely-related to the issue of defining bias crime is the need to develop guidelines for first-line responders and follow-up investigators to be able to determine whether an incident is bias-related. Because identifying motives is so difficult, the Baltimore County and the New York City Police Departments have developed a series of written questions for officers to consider in determining whether a crime is bias related. However, more information is needed on which specific guidelines have proven

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most useful and easiest to apply, and what minimal investigatory effort is needed to make this determination. The following are the more common guidelines recommended for identifying whether a crime is bias related:

- common sense (e.g., when a cross is burned on the lawn of a minority family that has just moved into an all-white neighborhood)
- language used by the suspect (although language by itself may not always prove bias--racist slurs can be uttered in the heat of an argument or fight that was initiated for other reasons, and language that is not threatening may not be a crime)
- severity of the attack (e.g., mutilation)
- lack of provocation
- previous history of similar incidents in the same area
- absence of any other apparent motive (e.g., battery without robbery).

Most law enforcement agencies that target bias crime instruct their patrol officers that if in doubt to err on the side of recording an incident as a bias crime and let investigators reclassify the incident, if necessary. During the first eight months of 1987, New York's Bias Incident Investigating Unit reclassified 20 percent of the 378 apparent bias incidents reported.

In addition to developing a uniform and workable definition, a data collection system must identify the data elements regarding the crime that should be recorded. The following three exhibits illustrate the diversity of information that can be collected. The first exhibit consists of information the California Racial, Ethnic, and Religious Crimes Project recommends be collected; the second exhibit is a tabulation of bias crime incidents compiled by the New York City Police Department's Bias Incident Investigating Unit during the first six months of 1987; and the third exhibit is a sample form used by the State of Pennsylvania for collecting data.

A consensus is needed regarding the value of collecting each data element. For example, recording the location of each incident would appear to be essential for identifying patterns and determining where to allocate police and community resources. Identifying the nature of the offense is also vital; otherwise, it is easy to underestimate the seriousness of the incidents reported. Officials in Maryland had been under the impression that most acts of hate violence in the state involved vandalism or verbal abuse. However, the data that were later collected documented that physical

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Exhibit 2

Proposed Data Elements for California State RERC Collection, Compilation, and Analysis

- Victim Information (a coding sheet will be completed for each victim).
  - -- number of victims
  - -- victim number
  - -- date of birth
  - -- sex
  - -- race
  - -- ethnicity
  - -- national origin: distinguished by traits including linguistics, ancestry, traditions, attire
  - -- religion
  - -- sexual orientation
  - -- organization membership or affiliation
  - -- relationship to suspect (if multiple suspects, identify by suspect number)
- Suspect Information (a coding sheet will be completed for each suspect).
  - -- number of suspects
  - -- suspect number
  - -- date of birth
  - -- sex
  - -- race
  - -- ethnicity
  - -- national origin: distinguished by traits including linguistics, ancestry, traditions, attire
  - -- religion
  - -- sexual orientation
  - -- organization membership or affiliation
  - -- relationship to victim (if multiple victims, identify by victim number)
- Crime Information
  - -- date
  - -- day of week
  - -- time
  - -- location
  - -- weapon
  - -- motivating factor
    - -- racial
    - -- ethnic
    - -- religious
    - -- sexual orientation
  - -- type of crime
    - -- statute(s)
    - -- status (actual, attempted, unfounded)
    - -- description of crime (i.e., cross-burning, painted swastika)
    - -- personal injury
    - -- property damage

Exhibit 3

New York Police Department
Bias Incident Investigating Unit
INCIDENT REPORT

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BOROUGH: ALL BORO's

REPORTING PERIOD: Jan. - June 1987

BIAS INCIDENTS: 310

RECLASSIFIED: 58

	SYNAGOGUES	JEWISH PERSONS	YESHIVAS	JEWISH CEMETERIES	JEWISH BUS. & RESID.	CHURCHES	RELIGIOUS PERSONS	SCHOOLS	CEMETERIES	OTHER BUS. & RESID.	BLACK - RACIAL	WHITE - RACIAL	HISPANIC	ASIAN/PACIFIC ISLANDER	ETHNIC	GAY	OTHER	TOTAL
BURGLARY	0[1]	0	0	0	2	0	0	0	0	0	2	0	0	0	0	0	0	4[1]
PROPERTY DAMAGE	0	2	0	0	1	1	0	0	0	0	3	0	0	0	0	0	0	7
SWASTIKAS	9	1	2	0	9[1]	1	0	0	0	0	0	0	0	0	1	0	0	23[1]
K.K.K./WRITTEN SLURS	3[1]	4	0	0	3[1]	0	0	0	0	0	2	0	0	0	1	0	0	13[2]
CROSS BURNING	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	1
HARASS/ ORAL SLURS	1	0	0	0	0	0	0	0	0	0	13[2]	9[3]	1	0	0	3	0	27[5]
AGGRV. HARASSMENT	0	10[1]		0	4	2	0	0	0	0	33[2]	13[2]	3	1	1	2[1]	0	69[6]
ASSAULT	0	5	0	0	0	0	1	0	0	0	47[8]	54[17]	14[4]	3	0	2	1[1]	127[30]
ROBBERY	0	0	0	0	0	0	0	0	0	0	3	11[8]	0	0	0	1	0	15[8]
ARSON	1[1]	0	1[1]	0	0	0	0	0	0	0	2	0	0	0	0	0	0	4[2]
LARCENY	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
OTHER Menacing	0	1	0	0	0	0	0	0	0	0	16[1]	1[1]	1	0	0	1[1]	0	20[3]
YTD TOTALS	14[3]	23[1]	3[1]	0	19[2]	4	1	0	0	0	122[13]	88[31]	19[4]	4	3	9[2]	1[1]	310[56]
PRIOR YTD TOTALS	16[1]	24[2]	3[1]	0	13[1]	6	0	2	0	0	36[4]	4	5	4	3	4	5	125[10]

Raised numbers indicate reclassified cases
Total # of incidents 310 minus # of reclassified cases 58
Equals total # of Bias Cases 252

Exhibit 4

PENNSYLVANIA
MONTHLY ETHNIC INTIMIDATION REPORT

12345	PA 01234
AGENCY NO.	ORI INCIDENT NO.

Forward By 5th Day After The End of Each Month To The Assigned State Police Station

Report forms are available ONLY thru State Police Liaison Officer

1 DATE	2 TIME	3 TYPE OF INCIDENT	4 VICTIM INFORMATION	5 OFFENDER INFORMATION	6 ARREST	7 SUMMARY OF INCIDENT (Describe Weapons, Injuries, and Property Damage)
10/21	2030	Criminal Mischief Cross Burning	B-M-34-P B-F-33-P	W-M-28-P-- W-M-26-C	Arrested Fined	WEAPONS - [X] NO [ ] YES TYPE: INJURY - [X] NO [ ] YES TYPE: PROPERTY DAMAGE - [X] NO [ ] YES TYPE:
10/21	1400	ARSON	WOR Hindu	W-M-12-P W-M-13-P	Arrested Juvenile Court	WEAPONS - [X] NO [ ] YES TYPE: INJURY - [X] NO [ ] YES TYPE: PROPERTY DAMAGE - [ ] NO [X] YES TYPE: Temple burned $12,000 damage
		SAMPLE				WEAPONS - [ ] NO [ ] YES TYPE: INJURY - [ ] NO [ ] YES TYPE: PROPERTY DAMAGE - [ ] NO [ ] YES TYPE:
						WEAPONS - [ ] NO [ ] YES TYPE: INJURY - [ ] NO [ ] YES TYPE: PROPERTY DAMAGE - [ ] NO [ ] YES TYPE:
						WEAPONS - [ ] NO [ ] YES TYPE: INJURY - [ ] NO [ ] YES TYPE: PROPERTY DAMAGE - [ ] NO [ ] YES TYPE:

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Det. Town PD — October — 96 — Jane Doe, Clerk

Prepared by — Title — PENNSYLVANIA STATE POLICE

Date — 1215 — Nov — 96 — John Doe

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assault played a major role in many of the incidents, raising the level of concern about the problem. Boston's Community Disorders Unit collects information on yet another significant variable--the number of repeat incidents. This information is useful for determining patterns of hate violence as well as the effectiveness of current police and prosecutor responses.

The third data collection issue is how to design an effective system for the actual recording and reporting of the desired information--for example, how law enforcement officers will record the desired information and how the classification will be verified. Adding to the paperwork requirements of the individual patrol officer is a serious concern. This problem is discussed in Section 3.2 below, along with the related issues of providing training to motivate and instruct officers in recording the needed information.

The final data collection issue is who should collect, analyze, and report the information. The first report of a bias incident can be made by the police, community organizations, or state or local human relations commissions. These three groups can also serve as collectors of the data, providing a central repository for the information and staff for analyzing and disseminating the information.

States like Maryland and Pennsylvania that collect data statewide rely on police reporting. Advantages of police reporting are that law enforcement agencies, unlike most community groups, are concerned with the entire community, and they can verify whether an incident is in fact a bias crime. However, when the police are responsible for reporting bias crimes, the officer at the scene determines whether an incident is bias related. Officers can fail to recognize the bias component or simply ignore it, resulting in unreliable data. Another disadvantage of relying on police reporting is that, as noted, many victims do not report incidents to law enforcement agencies.

Many of these victims, however, will instead report the crime to a community group, suggesting that constituency organizations or human rights commissions may be well suited to collect and report bias crime data. However, these organizations rarely investigate the claims of victims, and sometimes their criteria for what constitutes a bias incident differ from the criteria police use. Furthermore, it may be difficult for community groups to arrange to receive incident reports from police on a regular basis in order for them to develop a community-wide assessment of the problem. Finally, data compiled and publicized by constituency groups are often seen as self-serving and therefore suspect.

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An alternative role for constituency organizations is to encourage victims to report incidents to the police but at the same time share with their local law enforcement agency any cases they learn about independently. For example, the Montgomery County (Maryland) Police Department and the local Human Rights Commission have a written agreement to share information on cases. The Gay and Lesbian Anti-Violence Project in New York City often acts as an intermediary between victims and the police department, helping to increase police reporting by assuring the victim of sensitive and confidential treatment.

At the state level, either the human rights commission, the state police, or the state department of justice can take responsibility for compiling the data and supervising its collection at the local level. In Maryland, the State Police receive the data from local law enforcement agencies, compile it, and then forward it to the Maryland Human Relations Commission for analysis and dissemination. By contrast, California's Racial, Ethnic, and Religious Crimes Project recommended that the state Department of Justice supervise the state's data collection and dissemination effort.

While local conditions and constraints will dictate much of how a jurisdiction goes about collecting its data, the complex issues involved in setting up a system require further exploration so that law enforcement agencies and community organizations have a clear picture of the alternatives.

3.2 Law Enforcement

Our respondents made clear that most police administrators have significant reasons for not singling out bias crime, including:

- Concern that collecting data on hate violence will be used against the department and against public officials either to damage the community's image, or to document a serious community problem which responsible authorities will be accused of having neglected.
- Reluctance to saddle officers with increased paperwork.
- Disinclination to divert resources from other law enforcement responsibilities.
- A perception that bias crime is not a significant problem in the community, or that powerful elements of the community do not want the problem addressed.

However, there are also very compelling reasons for police agencies to target hate violence:

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- By developing a reporting system for bias crimes, departments can obtain advance warning of when an apparently trivial hate violence incident may, if ignored, escalate into full-scale community violence.

- Targeting bias crime can improve relations with community leaders, for example, by documenting to each constituency group that "its cases" are being fairly investigated compared with incidents against other groups.

- Demonstrations of concern for victims, such as recontacting them to ask how things are going, can improve a department's image in the community.

Once convinced of the value of targeting bias crime, police executives need to resolve a a number of issues in order to develop an effective response.

(a) What steps should law enforcement agencies take to target bias crime? The National Organization of Black Law Enforcement Executives (NOBLE) has developed a model law enforcement response to racial and religious violence that lays out the elements of a comprehensive police response. However, because the model presents "a range of standards...for consideration by each agency, based on its own resources and priorities," police may need assistance in prioritizing the steps recommended by NOBLE. In particular, police administrators may need to be able to determine the minimum activity necessary to have a significant impact on the problem. Our respondents and the literature suggest that the following six steps may be essential:

- Systematic data collection regarding the number, location, and nature of bias incidents in the community.

- Police training in the definition and identification of bias crime, and the importance of collecting bias crime data.

- Increased resources devoted to the investigation of bias incidents.

- Activities designed to encourage victims to report bias crime.

- Designation of a liaison to the minority community.

- Collaboration with the community to prevent bias crime and its escalation.

Police administrators need to know under what circumstances a special bias unit should be set up. NOBLE has suggested that the key considerations are available resources, the frequency, scope, and severity of hate violence incidents, the

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community's perception of bias crime as a problem, and alternative methods available to address the problem.

Who should staff a special unit is critically important. Some observers feel strongly that police community relations officers should not be used to handle bias crimes, because they are often not respected within the department and because victims do not need "hand-holding" but rather thorough investigation of the incident. Boston's Community Unit displays a sign that warns, "No wimps need apply." However, the Baltimore County Police Department reports no problems using community relations officers who are all corporals with 6-15 years' service in the department. In addition, victim assistance is seen as critical to reducing fear, promoting cooperation in solving the case, and encouraging future reporting of incidents.

To give added emphasis to a unit's importance, most police departments have them report directly to the chief or another very high ranking administrator. In addition, placing a high ranking officer in charge of the unit facilitates getting resources for the unit and promotes increased respect from the public. The New York City Police Department gave prominence to its Bias Incident Investigating Unit by replacing the captain who ran it with an inspector whose rank is two steps above that of captain. However, despite high level support, any special unit may be initially very unpopular within the department because of the scarce resources it is given. This potential for internal resentment places a special burden on the police chief for ensuring that the unit is accepted and properly used by the rest of the department.

An alternative to a specialized unit is to designate a senior detective as the coordinator of bias-related crime investigations. This is the approach taken by the Nassau County (New York) Police Department. (See Section 2.1 above.) Along similar lines, the Massachusetts Committee on Criminal Justice has proposed that all local police departments designate a specialist within their departments to recognize and handle bias crimes. The designated officer would carry out his or her normal duties but would be assigned to each bias crime case as it occurred. A number of police departments in the state have adopted this approach.

(b) What can police officers do about harassment that is not a bona fide crime? To begin with, officers need accurate information regarding what is and is not a crime in their local jurisdiction, such as verbal harassment, harassing telephone calls, and name calling. For example, even without a threat, verbal harassment is a criminal offense in New York State punishable by up to 15 days in jail; harassment on the

telephone is aggravated harassment punishable by up to a year in jail. However, in jurisdictions in which a threat must accompany verbal harassment to constitute a crime, there is often a thin line between what is criminal behavior and what is not.

Many observers recommend that non-criminal harassment be taken seriously and reported even if it cannot be prosecuted because the incident may be the first act in a pattern of hate violence that can escalate if not closely monitored. Offenders sometimes begin with minor harassment to test the response of the police and the rest of the community. If police, especially in conjunction with community organizations, respond swiftly and sternly, more serious hate violence can often be nipped in the bud. Immediate deterrence can also help prevent "copycat" incidents where other people are incited by an unpunished act of harassment to engage in hate violence activities of their own. Timely law enforcement response may also preempt retaliation by victims and thereby prevent escalation of the problem. Finally, ignoring verbal harassment tacitly tells offenders and the community that this behavior is either acceptable or at least does not represent serious wrongdoing, when in fact bias-motivated harassment of any sort is a serious act because of the fear it can instill. As a result, the Baltimore County Police Department written procedures for handling bias crimes instruct officers to report any non-criminal act done with the intention to "harass, intimidate, or create racial, religious, or ethnic conflict."

Some observers recommend that non-threatening verbal behavior be made an offense under city ordinances so that police at least have the option to arrest and victims the choice of bringing charges. Others, however, have First Amendment concerns with criminalizing verbal harassment. Alternative solutions to verbal harassment need to be explored, such as working with the community to find a remedy or having a local human relations commission mediate the problem.

(c) How should juvenile offenders be dealt with? As noted, a very large percentage of hate crimes are committed by teenagers and young adults. In most of the law enforcement agencies that have made bias crime a priority, it is department policy to treat youth--whether over or under the statutory definition of a minor--the same as adults and arrest them when they commit bias crimes.

Police in most jurisdictions, however, are reluctant to arrest offenders they believe are basically "good kids" in order not to saddle them at an early age with a criminal record. In addition, many criminal justice system personnel do not believe youngsters realize the seriousness of the hate violence they commit. In practice,

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therefore, most young offenders, even if they are arrested, are only given a slap on the wrist and let go. This leniency occurs even in jurisdictions with bias units, since juvenile and adult court judges alike will not normally follow prosecutor recommendations for more severe sanctions with this age group.

Most of our respondents felt that there should be a middle ground between a lecture from the bench and jail. However, different respondents advocate different alternatives, including fines, restitution, community service (possibly in the setting in which the offense occurred), and working through parents. In some cases, parents may be the source of the problem, and reaching youth this way may be a waste of time. However, most parents probably know that society's norms reject hate violence. Furthermore, many parents are more concerned about their children getting into trouble with the law than the youngsters are. An incident that illustrates both the promise and the difficulty of working with parents was tackled by the New York City's Bias Incident Investigating Unit. Black employees of a group home for the mentally retarded in an all-white section of the city were being harrassed by white teenagers waiting at street corners for them to come to work each day. The Bias Unit arranged a three-hour meeting with parents of the youngsters and promised to arrest the youths if the harassment didn't stop. The meeting revealed that the parents were upset by garbage the group home left on the street and by buses honking to get the staff to bring out the children for day trips. It also became clear that the offending teenagers were aware of their parents' anger about the garbage and noise problems and to some extent may have been following the parents' unspoken wishes in harassing the black employees. After the meeting, the unit worked with the home to eliminate the offensive conditions, and the parents saw to it that their children discontinued the harassment.

Another avenue for dealing with juveniles is through civil injunctions. As noted, the Massachusetts Civil Rights Act of 1979 permits the Attorney General to seek injunctive relief against juveniles of any age for violations of the act. Use of an injunction enables the court to avoid giving juveniles a criminal record yet makes it possible to regulate their future behavior with the threat of immediate and severe criminal sanctions (usually jail) if they violate the injunction. Nonetheless, outside of Boston few police officers in the state take advantage of the law.

Police need clarification on what their options are for dealing with juveniles and how they can coordinate with other criminal justice agencies and the community to prevent youthful offenders from going unpunished.

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(d) How can beat officers be motivated to determine whether an incident is bias related and then report it as a bias crime? Many patrol officers may be reluctant to identify and report bias crimes. For example, reports in the press at one time suggested that New York City police officers were not funneling anti-gay cases to the department's Bias Incident Investigating Unit. The California Department of Justice pilot study to test a reporting system with nine California law enforcement agencies found the potential for similar gaps in police reporting.

Many police officers and deputy sheriffs are reluctant to become involved in targeting bias crime because they do not take most incidents seriously, they dislike the increased paperwork involved in reporting bias incidents, and they often find it frustrating to determine whether a crime is motivated by bias. In addition, some officers may not target bias crime because, like others in the community, they share some of the negative attitudes of the perpetrators toward minority groups.

There is a need to document effective means of motivating beat officers to identify bias crimes as such. Without this initial flagging of the problem, there is little the criminal justice system can do about hate violence. Further examination of the effectiveness of the following motivational approaches is needed:

- An unequivocal and well-publicized commitment by the chief law enforcement executive to combatting bias crime. Follow-up must include providing the necessary resources and keeping in personal touch with on-going investigations.

- Training in the reasons and procedures for targeting bias crime in order to gain the cooperation of the beat officer.

- Transferring, disciplining, and, if necessary, firing officers who fail to follow department policy regarding the handling of bias crime. Further research is needed into appropriate and effective disciplinary responses to failure to perform, especially with regard to officers who are members of hate groups. For example, since it is not illegal to be a member of hate organizations, what should a department do regarding officers who belong to the Ku Klux Klan or Aryan Nations? Should the only issue be whether membership interferes with the officer's proper discharge of his or her police duties? The official response across the country has been varied, with some officers dismissed from some departments when their membership became known and others transferred to non-patrol duties.

(e) How can law enforcement agencies develop a workable procedure for officers to record whether an incident appears to be a bias crime? The simpler the procedure for reporting bias crimes, the more likely officers will be to report them.

One recommendation is to try to collect the information without changing the incident report form. For example, officers can indicate in the narrative that the crime appears to be motivated by bias and then describe the evidence supporting their conclusion. The supervisor who reads incident reports then pulls out the ones that suggest a bias crime has occurred and forwards them to someone responsible for verification or data collection. A problem with this approach is that some supervisors may not read the entire report, so the bias nature of the incident needs to be highlighted somewhere where it can be easily seen.

The Boston Police Department solved this problem by providing a block on its report form for indicating a suspected bias crime, but it had to reprint all its forms to do so. To avoid this expense, the San Francisco Police Department may create a stamp for indicating a bias crime. The San Jose Police Department has long used an existing box on its report form--"modus operandi"--for recording whether an incident is a suspected bias crime.

Whatever method is used, training is essential to make sure the adopted procedure is followed. However, the needed training may be time consuming. The bias incident coordinator in the Baltimore County Police Department spent a year going from precinct to precinct as bias-related incidents occurred to show each officer how to fill out the report.

(f) What kind of training do law enforcement officers need? While everyone agrees that training is essential for law enforcement agencies to be effective in combatting bias crime, there are a number of unresolved issues related to the type of training needed.

- Police agencies need assistance deciding what the training should focus on. Our preliminary research suggests that it is most important that training address the following:

  -- why bias crimes should not be considered mere pranks or trivial offenses;

  -- why it is important to collect data on bias crime;

  -- what a bias crime is and how it can be identified;

  -- how to report bias crimes (paperwork); and

  -- how to interview minority victims and be sensitive to their special concerns and needs.

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- Who conducts the training is extremely important. Some observers feel members of victimized groups are best equipped to conduct at least some of the training. Others believe that officers become defensive when addressed by representatives of minority groups and that sworn personnel should therefore do the training. However, police department staff who do the training should be seasoned, well-respected officers.

- Much of the training that occurs consists of lectures (e.g., at role calls). Yet, it appears that police officers do not learn well from lecture approaches. Other cost-effective means should be explored for effectively informing officers of their responsibilities in this area, such as case studies of actual incidents and role play. NOBLE and the National Institute Against Prejudice and Violence are currently developing approaches to training police in this area.

- There is debate regarding the relative emphasis training should devote to trying to change officers' attitudes as opposed to their behavior, especially given the small amount of training time typically available. While many observers feel attitudes are too ingrained to be altered, others point out that some officers will not change their behavior unless their misunderstandings about minorities are addressed--for example, that all gays are child molesters or all black male teenagers are criminals.

- Training must start at the executive level. However, it is not clear how best to orient police administrators.

(g) What kinds of ties do law enforcement agencies need to develop with the community? While no police agency can address the problem of bias crime successfully by itself, there are more ways to involve the community in the solution than most departments have the time to implement. An important issue is therefore which types of linkages should have the highest priority. To some extent, the choice of community ties must reflect local circumstances, such as the concerns and strength of community organizations, and existing police ties to the community. The following are some of the principal linkages from which to choose:

- The appointment of a liaison within the department to respond to requests for help and information from the community.

- Working with community support groups or with a victim assistance agency to pay special attention to victims of bias crime.

- Initiating or participating in community task forces on hate violence.

- Participation with community leaders in public forums on hate violence.

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- Exchanging information about bias crime incidents and victims with community groups.

- Establishing close ties with key minority community leaders who can be called on later for assistance in dealing with a bias incident. The Detroit Police Department developed a file of ethnic community leaders to contact in the event of an emergency, so that the leaders could scotch inflammatory rumors in the community and also inform police about incipient renewals of violence.

Police need to identify clearly what their objectives are in developing or expanding ties with the community, such as obtaining assistance in persuading reluctant witnesses or victims to testify; learning about bias incidents not reported to the police in order to detect patterns of hate violence activity; preventing negative publicity in the press over the handling of bias crimes; making sure the community receives accurate information about incidents as they occur; and encouraging reporting of crimes by minority victims.

Police agencies know that they cannot prevent or solve most hate violence activity without assistance from the community, but officers need concrete examples of how they can get citizens to help. For example, black youngsters taking public transportation to school through a predominantly upper-middle-class gay neighborhood in San Francisco were verbally harassing and occasionally assaulting gays on the buses. The district police commander not only stationed plainclothes officers on some of the buses, he also met with gay community leaders to suggest they use their sheer numbers to deter the harassment--by speaking up firmly to the teenagers on the buses to let them know there were a lot of gays on board who wouldn't tolerate being attacked.

(h) How can law enforcement agencies stimulate increased reporting of bias crime? Many minority groups, but especially Southeast Asians and gays and lesbians, are reluctant to report crime. Among the approaches for generating increased reporting are the following:

- Public statements by police officials (preferably in concert with public officials) urging minorities to report crimes and promising an effective police response. The Mayor of Boston and the city's Police Chief both made widely publicized statements that hate violence would be vigorously prosecuted if victims would report incidents.

- Distribution of public information materials, such as flyers and posters, and placement of PSA spots on radio stations with large minority audiences.

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- Presentations to minority organizations.
- Recruiting members of minority groups to the department, who, by their very presence on the force, may encourage minorities to report bias crime. For example, the New York Police Department set up a recruiting booth in the Lesbian and Gay Community Services Center.

(i) What ties do law enforcement agencies need with other criminal justice system agencies? Depending on the jurisdiction, close ties with other law enforcement agencies may be important to fighting bias crime. The Kootenai County (Idaho) Sheriff's Department formed a task force involving other law enforcement agencies in the state and region and the Federal Bureau of Investigation, because of the activity of many of the members of the hate violence organizations in the county crosses state borders and involves violations of federal as well as local laws.

A close relationship between police and the prosecutor's office is always important. As noted in Chapter 2, the Massachusetts Attorney General's Civil Rights Division trains police agencies in the provisions of the state Civil Rights Act, while the Police Community Disorders Unit telephones the District Attorney's office to discuss in advance each incident it plans to forward for prosecution to make sure the case is prosecutable. Some police officers report that constant follow-up is necessary to prevent prosecutors from losing interest in bias crime cases.

3.3 Prosecution

The issues prosecutors must address in targeting bias crime are fewer in number than those confronting police but they are no less serious. Above all, like police they need to develop the motivation to devote special resources to hate violence cases. As with police, failure to pay attention to apparently trivial incidents can lead to an escalation of violence that can embarrass a prosecutor--as one district attorney put it, "If you're caught short, you'll be caught way short, with the public up in arms about why you didn't do something to prevent the problem." Some district attorneys have received good press when--sometimes much against their will--they have gone after bias crime cases aggressively. A district attorney who initially refused to prosecute a member of the Ku Klux Klan because of widespread community sympathy for the organization was eventually pressured into filing charges. After winning the case, the prosecutor found he received more positive than negative support from the press and public for his action.

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(a) What kinds of special problems do prosecutors have with bias crime cases? Cases brought by special police bias units are generally well investigated but those brought by other officers are frequently not. Often police do not collect all the needed physical evidence, verify bias language used by the alleged offender, or line up reliable witnesses. While most prosecutors realize that police have limited resources for investigating and conducting forensic tests on any given case, the result sometimes forces prosecutors to dismiss the charges or plea bargain. Prosecutors also experience evidentiary problems when a case presents an equivocal set of facts. With some hate violence incidents there seem to be no innocent victims--everyone appears compromised. In these types of cases, the Queens (New York) District Attorney's Anti-Bias Bureau and the Massachusetts' Attorney General's Civil Rights Division send out their own investigators.

Another problem prosecutors face is securing meaningful sentences from judges. District attorneys who take bias crimes seriously generally charge the highest possible charge, avoid plea bargaining (unless the case is weak), and ask for severe sanctions--often a jail sentence for an assault with injury or with a second offender. However, they are often stymied by judges who insist on giving lenient sentences. Prosecutors need strategies for convincing the judiciary to take bias crime seriously.

Victims who want to drop the case are a constant problem. For example, minorities in some housing projects just want to move away after they have been victimized. To maintain victim interest in the case, prosecutors need to harness support from victim assistance programs and community groups. Vertical prosecution, used in the Anti-Bias Bureau of the Queens (New York) District Attorney's Office, may also help by fostering a close relationship between prosecutor and victim.

(b) What are the training needs of prosecutors? Most of the prosecutors we interviewed did not feel they needed any special training to handle hate violence cases. However, other observers felt prosecutors need training to realize that bias crimes need to be taken seriously and prosecuted vigorously. Training may also be important for learning how to interview bias crime victims and witnesses.

Prosecutors also need to learn how to deal with the "homosexual panic" or "gay advance" defense (claiming self-defense or temporary insanity in response to a sexual advance) which has resulted in lenient sentences or acquittals for defendants charged with assaulting or murdering gay men. At the end of one trial in which this tactic was used, the judge was reported to have told the jury that "If this had not been a jury trial,

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my decision as judge would have been different from yours . . . . I would have found first-degree murder." In addition, defense attorneys have increasingly exploited fear about AIDS to help win acquittals in gay-bashing cases. Training could also focus on how to conduct the voir dire in jury trials involving gay or lesbian victims, and how to make opening and closing statements to the jury.

3.4 Legislation

Police and prosecutors alike are affected by the availability of useful statutes regulating hate violence behavior. However, it is not clear how helpful special statutes really are nor how effectively they are being used.

(a) Is special legislation needed to address bias crime? Some commentators argue that existing laws are adequate to prosecute and punish bias crime offenders, including the use of "generic" statutes against arson, assault, battery, murder, mayhem, trespass, threats, and intimidation. According to this view, what is needed is political will on the part of dedicated police and prosecutors to enforce existing laws. Critics of bias crime legislation also argue that hate violence statutes amount to "special protection" for certain groups. Harrassment, assaults, and vandalism should be treated sternly regardless of who the victim is--"a crime is a crime." Although not objecting to other bias crime legislation, some observers have First Amendment concerns about criminalizing verbal harassment.

Many of our respondents, however, believe that at least some types of special statutes are needed. Reports issued by the National Organization of Black Law Enforcement Executives, the California Attorney General's Office, the Washington Lawyer's Committee for Civil Rights Under Law, the Southern Poverty Law Center, and the Anti-Defamation League all reach this conclusion.

(b) What are the specific advantages of each type of bias crime legislation? Proponents of special legislation need compelling arguments organized in an accessible manner in order to advocate effectively for the passage of each type of special statute, or each component of a model statute. Fence-sitters and opponents of special legislation need to be convinced to support new statutes. Arguments that need further elaboration include the following:

- Upgrading the criminal status of a bias crime from a misdemeanor to a felony may encourage police, prosecutors, and judges to investigate, prosecute, and sanction hate violence more vigorously.

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- Increasing the penalties for existing bias crimes conveys an official message to the public that hate violence is a serious offense, not a harmless prank.

- A civil rights statute permitting injunctive relief at the state's request enables prosecutors and judges to regulate the behavior of youthful offenders closely without giving them a criminal record. It also provides a meaningful remedy for offenses like breaking windows that normally carry minimal penalties, because violation of a civil injunction is a serious offense permitting a severe sanction. Furthermore, violation of an injunction brings swift and certain punishment. By using a civil procedure where the evidentiary requirement is only a preponderance of the evidence, cases with less than ideal evidence can be successfully prosecuted. Finally, an injunction can be used to prohibit future behavior against any other member of the victim's minority group.

- Mandatory data collection is necessary to document to skeptical criminal justice system personnel--and to many disbelieving segments of the general public--that hate violence is a problem in their community that requires special attention.

(c) How can state statutes be enacted that include gays and lesbians? Recent bias crime legislation introduced in New York State was defeated at least in part because the bill included protection for homosexuals, suggesting it may be politically difficult to include gays and lesbians in state statutes. Attempts to amend existing bias crime statutes to include homosexuals have been voted down in other states. However, excluding this group either condones bias crime against gays and lesbians or suggests it does not exist. Strategies are needed that will encourage legislatures to include gays and lesbians in their statutes.

(d) What problems have there been with the implementation of existing statutes that suggest the need for amendments? Our respondents report that the Massachusetts Civil Rights Statute works well. However, there have been problems with the implementation of statutes in some other states. Proponents of special statutes need a detailed summary of these and other difficulties police, prosecutors, and judges have experienced with the laws, and recommendations for solving them.

(e) Have statutes helped reduce hate violence? Given the significant problems inherent in reporting bias crime (see discussion in Section 3.1, Data Collection and Reporting), the impact of special statutes is difficult to assess. Anecdotal evidence strongly suggests that the Massachusetts Civil Rights Act has reduced hate violence in Suffolk County (Boston) and Norfolk County (suburban Boston). Useful information

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could be obtained in other jurisdictions that documents at least the extent to which special statutes have been used, and how often the government has won these cases.

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4.0 RESOURCES

This final chapter provides an annotated review of the major reports we received from our respondents and from a library computer search. We then list selected organizations involved with bias crime issues.

4.1 Previous Research

4.1.1 General Reports

- "Racial and Religious Violence: A Model Law Enforcement Response," National Organization of Black Law Enforcement Executives, September 1985. The final report of an extensive study by NOBLE to develop and recommend state-of-the-art policies, practices, and procedures for identifying, reporting, and investigating incidents which are apparently religiously or racially motivated. A model law enforcement response was detailed, stressing the role of police and the need for police-community cooperation in the entire area of response to and prevention of racially or religiously motivated violence.

- "Racial and Religious Violence: A Law Enforcement Guidebook," National Organization of Black Law Enforcement Executives, March 1986. A concise program for law enforcement agencies to respond to the issue, listing roles and responsibilities for agency personnel and sample directives to ensure enforcement of these crimes.

- "First National Conference on Prejudice and Violence in America: Proceedings of Plenary Sessions," National Institute Against Prejudice and Violence, September 1986. Includes reports on research, a panel discussion on the nature and scope of the problem, an address by Judge Webster on the FBI perspective on hate violence, and a presentation on the activities of hate groups. The participants in the program are all known for their concern about the bias crime and civil rights issues.

- "Intimidation and Violence: Racial and Religious Bigotry," a statement of the United States Commission on Civil Rights, January 1983. Reviews the extent of the problem, probable causes and contributing circumstances, and promising responses, focusing on education and public awareness, legislative initiatives, and improving police intervention. Concludes that federal and state authorities need to develop workable reporting systems, and that educational programs should be designed to effectively combat the problem in the community.

- "The Status of Bigotry and Violence in Southwestern and Southeastern Pennsylvania in the Mid-1980s. A Briefing Memorandum to the U.S. Commission on Civil Rights from the Pennsylvania Advisory Committee," March 1986. Reports on a series of three meetings in which evidence was given regarding the

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level of violence and bigotry in those areas of the state. Statements by representatives of civic organizations and federal, state, and local agencies address these issues and discuss recommendations.

- "Responding to Hate Crimes: An Information Summary from the Human Rights Resource Center," n.d. Provides an overview of existing and proposed police department approaches to reporting of, response to, and investigation of bias crimes, as well as police-community cooperation for responding to and preventing bias crimes. Police departments that have special expertise in any of these areas are listed, along with, where available, policy statements from these departments.

- "Bias-related Crime: Ripping at Society's Fabric," a three-part series by Jennifer Nislow in Law Enforcement News, March and April 1987. Detailed articles reviewing the extent of the problem, focusing on organized hate groups and the police response. Also closely examined the progress and problems of data collection on bias crimes and the difficulties in that area.

- "Anti-Gay Violence: Causes, Consequences, Responses," a White Paper by the Violence Project of the National Gay and Lesbian Task Force, 1986. An extensive overview of the problem of violence against gays and lesbians, detailing the scope and nature of the violence, and the problems with law enforcement response. Recommends legislation to combat anti-gay violence, and improved police policies directed toward a more vigorous prosecution of anti-gay violence.

- "When Hate Groups Come to Town: A Handbook of Model Community Responses," Center for Democratic Renewal, 1986. A detailed program of efforts to combat the rise of organized hate groups in communities, including models for community-based organizations. Emphasis is given to the response of the church and clergy, human relations commissions, schools, law enforcement agencies, and local and state governments to hate groups. Case studies from the early 1980s show how different efforts made by communities affected the hate groups, and document that effective strategies can be put into practice.

- "The Hate Movement Today: A Chronicle of Violence and Disarray," Anti-Defamation League of B'nai B'rith, 1987. Provides detailed information on current activity of organized hate groups, focusing on the KKK, the "Christian Identity" Movement, neo-Nazi groups, and other "hybrid" organizations.

- "Final Report of the Governor's Task Force on Violence and Extremism," Annapolis, Maryland, January 1987. A comprehensive report on bias crime and prejudice in Maryland. Includes the results of two surveys of attitudes of state residents, details of available state statutes targeted at bias crime, and reporting requirements and statistical analyses of available bias crime data. Prevention through education is stressed, and programs for

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school administrators are suggested. Community groups are also encouraged to participate in the effort to educate the public and provide local leadership on the issue.

- "A Framework for Locally Planned Responses to Instances of Racial and Religious Animosity," Metropolitan Washington Council of Government, April, 1982. Outlines a model approach for communities to respond to bias incidents, centered on an active role for community leaders, organizations, and groups in educating the public about the extent of and harm caused by racial and religious animosity.

- "Final Report: Attorney General's Commission on Racial, Ethnic, Religious and Minority Violence," California Department of Justice, April 1986. Report reviews hate violence in California and recommends statewide hate violence reporting, a civil rights statute with criminal penalities for bias crimes, victim assistance programs for victims of hate violence, law enforcement training, and education to address prejudice that leads to violence.

- "Models for Management: Racial, Religious and Ethnic Violence," The International Association of Chiefs of Police, February, 1987. A model policy developed as a guide for police executives interested in formulating a written procedure to prevent and resolve potential hate violence incidents. The policy includes a purpose, definition, policy statement, and procedures for investigating officers, the field supervisor, and investigative personnel responding to the crime.

4.1.2 Data Collection Efforts

- "Racial, Ethnic, and Religious Crimes Project: Preliminary Steps to Establish Statewide Collection of Data," California Department of Justice, January, 1986. In response to a 1984 statute, the California DOJ ran a pilot project to collect data on crimes motivated in whole or part by race, ethnicity, religion or sexual orientation, with eight local law enforcement agencies participating. The report summarizes the results of the project, covering the wide range of issues involved. A program model was developed, which included means for statewide collection of data and uniform definitions and guidelines for consistent reporting. Use of the model on a statewide basis was recommended. Local law enforcement agencies would report their data to the DOJ, which would analyze and disseminate it.

- "Idaho Hate Crime Uniform Crime Reporting System," Kootenai County, Idaho. Recommends the development of a standardized method of reporting racially and religiously motivated crimes in Idaho, and greater education and training of law enforcement officers and prosecutors on their role in combatting these types of crimes.

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- "Audit of Anti-Semitic Incidents," Anti-Defamation League of B'nai B'rith, 1985 and 1986. These reports detail data collected by the ADL through its branch offices, and include both a summary and breakdowns of the data by state. A list of states with "ethnic crime" statutes is also provided.

- "The Ethnoviolence Project: Pilot Study," National Institute Against Prejudice and Violence, October, 1986. Initial report of a national study on the effects of ethnoviolence on minority group victims, using a sample of victims in seven states. Details the nature of incidents of ethnoviolence and the low level of reporting by victims to the police.

- "Anti-Gay/Lesbian Victimization," National Gay and Lesbian Task Force, June 1984. Reports the results of a survey of homosexuals in eight cities showing a high level of bias incidents because of sexual orientation. Includes recommendation for further legislation protecting gay and lesbian civil rights, and for greater law enforcement efforts in this area. The National Gay and Lesbian Task Force also prepares "Anti-Gay Violence, Victimization, and Defamation," an annual report similar to the Anti-Defamation League's, that provides an audit of incidents, by type of activity, reported by 41 organizations in 24 states.

- "Klanwatch Intelligence Report," Southern Poverty Law Center. Bi-monthly report of incidents by type of activity in cities throughout the country. Sent to 4,000 law enforcement agencies to keep them abreast of what is happening in their communities. Data are collected by monitoring news clipping services, reviewing depositions submitted as part of court cases, contacts with police and reporters nationwide, and soliciting reports of incidents from 144,000 donors.

- The National Institute Against Prejudice and Violence collects incidents from newspaper article and reports submitted irregularly by police departments. Staff are beginning to computerize the incidents by target group and type of incident.

4.1.3 Statutory Reviews and Model Statutes

- "Striking Back At Bigotry: Remedies Under Federal and State Law for Violence Motivated by Racial, Religious, and Ethnic Prejudice," National Institute Against Prejudice and Violence, May 1986. the report summarizes the criminal and civil statutes that apply to racial and religious violence under federal and state laws. It also lists common law and state statutory remedies that are applicable to, though not expressly aimed at, acts of violence motivated by prejudice.

- "Civil and Criminal Remedies for Racially and Religiously Motivated Violence." The Washington Lawyers' Committee for Civil Rights Under Law, 1983. The report summarizes criminal statutes that apply to incidents of racial and religious violence

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under the Federal law, and the state laws of Virginia, Maryland, and the District of Columbia. The report analyzes the extent to which these statutes permit a civil action for damages and other relief against offenders. Recommendations for improvement and clarification of the law are included.

- "Racially-Motivated Violence and Intimidation: Inadequate State Enforcement and Federal Civil Rights Remedies," by Gregory L. Padgett, The Journal of Criminal Law & Criminology, 1984, Vol. 75, pp. 103-138. Article evaluates the adequacy of state legislation and criminal enforcement procedures intended to deter and punish bias crime, and advocates increased reliance on federal criminal and civil remedies.

- "ADL Model Statute: Ethnic Vandalism and Intimidation," the Anti-Defamation League, 1985. The model contains two sections. The first deals with institutional vandalism and prohibits damage to places of worship, cemeteries, schools, and community centers. The second section creates the crime of ethnic intimidation, which increases the penalty for assault, harassment, and other crimes when committed with bias motivation. A third section provides civil injunctive relief and other civil relief. The report also provides a state-by-state summary of legislation that prohibit ethnic vandalism or intimidation with copies of each statute provided in an appendix.

4.2 Selected Involved Organizations and Their Functions

- The National Institute Against Prejudice and Violence is a research, resource, and educational organization based in Baltimore, which takes a multifaceted approach to the problem of violence motivated by prejudice. Through its programs, the Institute helps communities to improve intergroup relations. It acts as a clearinghouse for information on all aspects of bias crimes, and conducts and sponsors research designed to contribute to understanding the causes and consequences of prejudice and violence. It also conducts educational programs for both policy makers and communities.

- The Center for Democratic Renewal is a multi-racial, multi-ethnic, inter-faith organization which counters hate group activities with a program of education, research, victim assistance, community organizing, leadership training, and public policy advocacy. Based in Atlanta, the Center, formerly known as the National Anti-Klan Network, is particularly active in research and public education, publishing several reports on hate groups and how communities can respond to them.

- The Anti-Defamation League of B'nai B'rith collects and disseminates data on anti-Semitic incidents, tracks organized hate groups, provides research and education programs for policy makers and the public, and is active in combatting anti-Semitic activities nationwide.

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- The Anti-Violence Project of the National Gay and Lesbian Task Force monitors anti-gay incidents nationwide and publishes an annual report documenting its findings. The project also lobbies for and tracks pertinent legislation, conducts media campaigns to publicize the prevalence of violence against gays, encourages community-wide efforts to preventing attacks, and works with police to improve reporting by gays and sensitive treatment of victims by officers.

- The New York City Gay and Lesbian Anti-Violence Project engages in community outreach and public education on anti-gay and anti-lesbian violence in the city, as well as providing counseling, advocacy, and general assistance to gay and lesbian victims. The Anti-Violence Project offers assistance to victims in reporting incidents of violence to the police, and monitors cases in the criminal court system. It seeks also to improve gay community-police relations through educational programs it offers.

- The Southern Poverty Law Center, based in Montgomery, Alabama, tracks the activities of hate groups throughout the country. From an initial focus on only the Ku Klux Klan, the Center now follows a variety of hate groups, researching them and providing public education programs on the threat these groups present.

- The Human Rights Resource Center in San Rafael, California, provides free information and technical assistance to groups seeking to combat hate crimes--including anti-gay violence--and to improve police/community relations.

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Appendix A

Bias Crime Survey

Law Enforcement Interview Guide

(1) How severe is the problem of bias crime and harassment in your jurisdiction?

PROBE FOR:

(a) How frequently does it occur?
(b) Is it prevalent throughout the jurisdiction or only in some areas?

(2) What kinds of hate violence and harassment are most common? Specifically:

(a) Which groups are the targets? (e.g., Blacks? gays? Arabs?)
(b) What is the nature of the violence or harassment against them? (e.g., simple assaults? arson? verbal abuse? property damage?)
(c) Who is committing the violence and doing the harassing? (e.g., organized groups like the Aryan Nations or KKK? individuals? juveniles? neighbors? deranged people?)

(3) Does your department collect any data on bias crimes and harassment? If so:

(a) What data do you collect?
(b) How do you collect it?
(c) What use does the department make of the data?
(d) Are you required to collect the data by statute, by department policy, or both?
(e) Have any individuals or groups urged you to collect these data? [If so, probe for who put pressure on the department.]
(f) Do you collect the type of data you need to address the problem of bias crime? If not, what additional data do you need? How could you collect it? Does some other organization have the data you need?

If not:

(a) Do you need any data on bias crimes and harassment to be able to address the problem effectively? If not, why not? If so, what data do you need?
(b) How could you collect the data? Are there other groups from which you could get the data?
(c) Have any individuals or groups urged you to collect data on bias crimes? If so, who has urged you and what kind of data do they want you to collect?

(4) Has your department taken any steps to deal with the problem of bias crime? If not, why not? If so, what steps have you taken? PROBE FOR THE FOLLOWING KINDS OF ACTIVITY:

- special bias unit
- special investigation techniques
- special reporting procedures by the department [but see Q. (3) above]
- special efforts to encourage victims to report bias crimes and harassment

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- community outreach
- coordination with other law enforcement agencies
- interagency task forces (both those involving several law enforcement agencies and those involving community organizations--churches, constuency groups, etc.)
- use of civil rights statutes

(5) Are you familiar with [other] law enforcement agencies that have made special efforts to target bias crime?

(6) What kinds of hate-violence activity do you consider to be bona fide crimes and what kinds to be non-criminal? PROBE FOR:

(a) How about verbal threats? name calling? harassing telephone calls?
(b) What, if anything, does your department do about hate-violence that you do not consider to be bona fide crimes?
(c) What do you think law enforcement agencies should do about these non-criminal forms of harassment?

(7) To what extent are juveniles involved in bias crime in your jurisdiction?

(a) How do you handle them?
(b) How do you feel law enforcement agencies should handle them?
(c) What can be done to make sure juvenile offenders stop engaging in hate violence? What remedies would work with them?
(d) Does your department work with the community to try to deal with hate violence by juveniles? If not, what kind of relationship between police and the community, if any, would be useful?

(8) In what [other] ways, if any, have you worked with the community to address the problem of bias crime? PROBE FOR HOW RESPONDENT FEELS LAW ENFORCEMENT AGENCIES SHOULD AND CAN WORK WITH COMMUNITY GROUPS AROUND BIAS CRIME.

(9) Is there any other agency in your community that handles bias crime or harassment? PROBE for whether other groups become involved when non-criminal harassment, like name calling, is involved.

(10) Do law enforcement agencies have many police officers or deputy sheriffs who may be sympathetic to some of the rhetoric of organizations like the KKK and Aryan Nations? If so, how should departments deal with that kind of sympathy? PROBE FOR HOW THE RESPONDENT'S DEPARTMENT MAY HAVE DEALT WITH THE PROBLEM.

(11) Are you familiar with any statutes that place requirements on police or sheriffs in your state regarding the reporting or handling of bias crime? IF SO, PROBE FOR TITLE OF STATUTE AND HOW TO OBTAIN A COPY.

(12) Do you have any written materials you can make available to us regarding your department's handling of bias crimes? PROBE FOR:

(a) statistical summaries and the like
(b) general orders, manuals, and other written procedures
(c) reporting forms

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Appendix B

Selected List of Additional Criminal Justice Agencies That Target Bias Crime

- In December 1986, the Philadelphia Police Department formed a Conflict Prevention and Resolution Unit to track and investigate bias crimes. In June 1987, the Police Commissioner ordered the department to give "priority attention" to the investigation of bias crimes.

- The Mayor of Los Angeles announced in June 1987 that the Los Angeles Police Department will make a special effort to identify and index bias crimes. The department will train its officers to be alert for signs of bias in the crimes they are investigating. The department will share its bigotry-related crime reports with civil rights groups and with local human relations commissions.

- The Howard County, Maryland, Police Department implemented a bias-crime policy in 1987 that includes telling officers what to look for when investigating incidents that may be bias related and reporting them to the local human rights commission.

- The Houston Police Department established a written policy for handling crimes in 1982 that requires immediate action by both the community services division and the intelligence division when a hate crime occurs. Incidents are brought to the chief's attention immediately.

- In 1981, the Providence, Rhode Island, Police Department established an undercover unit called the Terrorist-Extremist Suppression Team to track Klan, neo-Nazi, and other extremist groups and investigate all complaints of harassment which fall under hate violence laws.

- The Opa-Locka, Florida, Police Department instituted a department policy in 1982 that requires a patrol unit to be dispatched to each hate violence call, a special unit to investigate the incidents, and a public awareness campaign to prevent bias crime.

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(continued)

- Each troop of the Pennsylvania State Police has community relations officers who specialize in the investigation of "ethnic intimidation" incidents. Municipal jurisdictions may request their assistance for investigation of local incidents. The Pennsylvania State Police Bureau of Community Services holds classes for municipal police officers about response to and investigation of ethnic intimidation incidents and crimes, and has done so for a number of years. The Bureau also practices community outreach programs, in cooperation with the state Human Relations Commission.

- The Community Relations Service Office of the U.S. Department of Justice acts as a neutral third party, going into communities that are experiencing trouble because of racial or ethnic incidents. The office is primarily involved in conciliation and mediation efforts, working with local groups to promote greater understanding within the community.

- Efforts targeting bias crime are also reported to be underway or well established in Toledo, Ohio; Minneapolis; Chicago; Seattle; Georgia; and San Jose.

- The San Francisco District Attorney's Office trains assistant district attorneys in countering the "homosexual panic defense" (the claim of self-defense in response to a gay sexual advance) and in selecting juries for gay-related cases.

- The Manhattan District Attorney's Office has established a Liason to the Gay and Lesbian Community, whose job includes encouraging gays and lesbians to report crimes to the criminal justice system. The Liason also coordinates with the New York City Police Bias Incident Investigations' Unit, works with the New York City Anti-Violence Project and the Crime Victims Board, and trains assistant district attorneys in prosecuting anti-gay and anti-lesbian violence.

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Appendix C

POTENTIAL FOLLOW-ON ACTIVITY

Two follow-on activities the National Institute of Justice could undertake in the area of bias crime are regional roundtable conferences and preparation of an Issues and Practices document. Each of these activities is discussed briefly below. Police training, a third important follow-on activity, is currently being implemented in a joint effort by the National Organization of Black Law Enforcement Executives (NOBLE) and the National Institute Against Prejudice and Violence.

4.1 Regional Roundtable Conferences

A series of regional roundtable conferences would help resolve several of the issues that criminal justice system agencies must address in order to deal effectively with bias crime. These meetings would bring together four-to-six representatives from constituency organizations and other groups within the region that have shown an interest in the problem together with four-to-six criminal justice system personnel. Each conference would have a specific agenda--perhaps with different agendas for different regions--consisting of the specific questions that need to be answered. Participants would be sent the questions in advance of the conference and asked to submit short responses a week before the meeting.

The conferences would be moderated by a "neutral" third party, such as an Abt Associates staff member, who would facilitate the group's efforts to reach a consensus on each issue. A representative from the National Institute of Justice would also attend, but care would be taken by the moderator and the Institute representative to make sure discussion focused on the issues, not on the Federal Government's role in addressing bias crime.

Not all of the issues identified in this Research Application Review are appropriate for discussion at the conferences. Some of the issues require concentrated dialogue between different agencies within the criminal justice system (e.g., between police and prosecutors, and between prosecutors and judges); concern only one type of group (e.g., how to identify bias crimes on the incident report is a police problem); or cannot be adequately addressed in the time available for the conferences (e.g., defining bias crime). The issues that would be most appropriate for these conferences require dialogue between constituency groups and the criminal justice system, are self-contained, discrete areas of concern, and can be resolved in two or three hours of discussion.

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We would expect each regional conference to address no more than two-to-four issues. The following are the types of issues the groups might address:

(1) What data elements are most important to collect?

(2) Who should collect the data?

(3) Among the many steps criminal justice agencies could take to combat bias crime, what is the minimum activity police, prosecutors, and judges need to undertake to have an impact on the problem?

(4) What is the minimum investigation effort needed to determine whether a crime is motivated by bias? What are the most reliable and frequently encountered indicators of a bias crime?

(5) What can law enforcement and the community do about hate violence that is not a bona fide crime?

(6) How can minors be dealt with in a manner that will be acceptable to juvenile judges yet effective in preventing bias crime?

(7) What kind of training do law enforcement officers need, and who should provide them?

(8) What are the most useful ties law enforcement agencies and prosecutor offices can establish with the community?

(9) What can be done to motivate prosecutors to treat bias crimes seriously?

(10) What specific kinds of statutes, if any, can provide significant help in the fight against bias crime?

(11) What strategies are available for including violence against gays and lesbians in state legislation targetting bias crime?

Further research is needed to determine whom to invite to each conference. For the Research Application Review, we asked respondents what organizations in their region were actively involved in drawing attention to the problem. However, most respondents were unable to identify any other groups besides the Anti-Defamation League and the National Association for the Advancement of Colored People. The National Gay and Lesbian Task Force Anti-Violence Project has been active on a national level, and the Gay and Lesbian Anti-Violence Project in New York City has been active in New York State. The Asian Pacific American Coalition has promoted legislative and law enforcement change on the West Coast. At least one participant from each region should be from a state criminal justice planning agency.

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4.2 Issues and Practices Report

The literature review and interviews conducted for this Research Application Review indicate that an Issues and Practices Report on police/prosecutor approaches to bias crime would be a very useful addition to the literature. The problem of hate violence is a serious one in many jurisdictions, and few law enforcement agencies and prosecutor offices are addressing it effectively.

No existing document provides the type of information we would develop. The only somewhat similar documents are the Racial and Religious Violence: Model Law Enforcement Response and Racial and Religious Violence: A Law Enforcement Guidebook developed by the National Organization of Black Law Enforcement Executives. However, while excellent reports for their purpose, they differ in the following ways from the volume we propose to provide:

- NOBLE's focus is law enforcement, while we will be addressing prosecutors, as well.
- NOBLE's documents address racial and religious violence, while ours will also include hate violence against gays and lesbians.
- NOBLE's major achievement is a model law enforcement response. We propose to describe and compare actual law enforcement and prosecutor practices.
- The NOBLE reports provide two brief case studies of actual site practices. We will be providing detailed case studies of several jurisdictions' approaches to addressing bias crime.
- While the NOBLE study singled out the critical importance of data collection for addressing bias crime, we will address the issue of data collection and reporting in depth, including a discussion of available data sources, alternative methods of data collection and reporting, and constraints and solutions to effective data collection.

While the NOBLE reports and ours would share one of the same audiences--law enforcement administrators--our document would not substitute for NOBLE's. Rather, it would complement the NOBLE reports by providing comprehensive accounts of actual practices to go along with NOBLE's model. We would expect law enforcement administrators to want and need both documents in order to develop an effective response to bias crime.

There are ample innovative efforts by law enforcement agencies and prosecutor offices across the country for us to present extensive site documentation in

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the report. Chapter 2.0 above identifies at least six jurisdictions in which a law enforcement agency has undertaken a serious effort to combat bias crime, and at least four jurisdictons in which a prosecutor office has done so. Interview results with respondents in each of these jurisdictions, written documentation on each site, and high praise for their efforts among our other respondents indicate that collectively these jurisdictions would provide a stimulating and diverse set of practices which other jurisdictions could replicate.

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Bias Crime and the Criminal Justice Response
A Summary Report Prepared for the National Criminal Justice Association

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Bias Crime and the Criminal Justice Response

Peter Finn
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INTRODUCTION

Bias crimes are words or actions designed to intimidate an individual because of his or her race, religion, national origin, or sexual preference. Bias crimes range in seriousness from threatening phone calls to murder. These types of offenses pose greater challenges for the criminal justice system than do comparable crimes that do not involve prejudice because they are intended to intimidate other people who belong to the same group. The fear they generate can therefore victimize a whole class of people.

Nature of the Report

This report summarizes an exploratory review (Research Application Review) of bias crime and the criminal justice system conducted in September 1987 by Abt Associates Inc. for the National Institute of Justice and previous NIJ-sponsored research on law enforcement responses to racial and religious violence conducted by the National Organization of Black Law Enforcement Executives (NOBLE). It has been prepared for the Annual Meeting of the National Criminal Justice Association.

The research conducted by NOBLE in 1984-85 included a review of the literature on hate violence, a survey of 41 law enforcement agencies and 20 community organizations in jurisdictions where hate violence incidents had occurred within the past five years, analysis of state and Federal legislation specific to hate violence, and on-site study in six jurisdictions. Following a national symposium, a report and handbook on standards and protocols for law enforcement response and investigation of hate violence incidents was developed and disseminated.

The Abt Associates Research Application Review focused on emerging issues in the area of bias crime and on current efforts that selected law enforcement agencies and prosecutors' offices have taken to address such crimes and the problems they have encountered. Because such reviews are preliminary investigations of a topic area and are often completed in four to six weeks, they do not involve comprehensive surveys or detailed assessments of field practice. To complete the review, the authors of this report interviewed forty respondents listed in Appendix A. Twenty-one were

representatives of the criminal justice system, including eleven associated with law enforcement, five with prosecutor offices, and five with the National Criminal Justice Association. Fifteen respondents represented constituency organizations, including groups representing minorities that are often victims of hate violence (e.g., the National Association for the Advancement of Colored People, the National Gay and Lesbian Task Force, and the Anti-Defamation League), and generic organizations devoted to preventing hate violence (e.g., the National Institute Against Prejudice and Violence, Klanwatch). Four respondents were researchers who have conducted studies related to hate violence. In general, respondents were selected who administer law enforcement or prosecutor programs that currently target bias crime, or who were the most knowledgeable official about bias crime within each constituency organization we contacted. The average interview lasted slightly over an hour.

Available written materials were also collected from each respondent. These documents were supplemented by a library search of pertinent articles and reports. The results of the literature review may be found in Appendix C.

Although no formal statutory review was conducted, relevant legislation was obtained from several respondents and benefitted from statutory reviews conducted by the National Institute Against Prejudice and Violence, the Washington Lawyers' Committee for Civil Rights Under Law, and the Anti-Defamation League.

Statement of the Problem

For a variety of reasons (see Section 3.1 below), there are no accurate data regarding the number of bias crimes committed each year. However, both the NOBLE and Abt Associates respondents believed that the problem is widespread. A limited review of recent data also indicates that it may be increasing. For example, in New York City, the total number of reported bias crimes for the first six months of 1987 was double that for all of 1986. There is also some evidence that bias crimes may be turning more violent. NOBLE found that whereas vandalism was still the most common offense reported by their respondents nationwide, 44% reported assaults, 25% reported arson incidents, and nearly 15% reported at least one homicide.

Most respondents to both Abt Associates and NOBLE also believe that fewer incidents are being committed by members of organized hate groups, like the Ku Klux Klan, but many more are being perpetrated by individuals or small groups of people acting on their own.

Respondents also concurred that at least half the people arrested for bias crimes are older teenagers and young adults between the ages of 16 and 25. For example, New York City police records document that 70% of arrests for bias crimes in the past seven years were of youths under 20 years of age.

Most law enforcement agencies contacted by Abt Associates researchers reported that the most frequently victimized groups are Blacks and Jews. Records from the New York City Police Department's Bias Crime Unit show that from January through June, 1987, close to two-thirds of the bias crimes reported to the unit were targeted at these groups (21% against Jews and 43% against Blacks). In 1988, the Division of Church and Society of the National Council of the Churches of Christ in the USA published a study on hate violence addressing this issue.

The study, conducted by the Atlanta-based Center for Democratic Renewal, compiled a state by state report of hate violence incidents from newspaper clippings, field reports, court documents, reports by other human rights organizations, and government bodies. Based on these sources and personal communication from victims who call or write the center, the organization found that:

- The traditional targets of hate violence, Blacks and other people of color, as well as Jews, remain the single largest target of organized hate violence.
- In recent years, some law enforcement personnel have also been targeted by a number of neo-Nazi organizations.
- The Ku Klux Klan and other neo-Nazi groups have increasingly targeted gay and lesbian people for attack and intimidation.
- Since 1980, unorganized violence directed at Blacks seems to surface at points of social and economic conflict such as in "transitional" neighborhoods.
- A largely spontaneous wave of homophobic violence seems to be sweeping the nation.

Finally, respondents to the NOBLE survey reported that racial and religious minorities are considered very likely to report an act of violence or vandalism, but are far less likely to report verbal harrassment or intimidation. By contrast, in the Abt Associates review, the former commander of the New York Bias Crime unit observed that even in New York City, with its large, politically active gay community, gays are the group least likely to report any crime against them to the police, largely for fear of exposure.

NOBLE and Abt Associates respondents differed on their assessments of law enforcement/criminal justice repsonses to hate violence. Both law enforcement and community group respondents in the NOBLE study felt that law enforcement agencies understood the serious nature of bias crimes. Almost two-thirds of law enforcement respondents rated incidents that had occurred in their jurisdictions in the "very serious" category, and 55% of community groups rated the law enforcement response in their community as good to exceptional. Abt Associates respondents, on the other hand, believed that for the most part, for various reasons, the criminal justice system has not recognized the seriousness of hate violence, or that many criminal justice personnel do not want to believe that hate violence exists in their community.

CURRENT PRACTICES

Some law enforcement agencies have devoted considerable resources to combatting hate violence. The National Organization of Black Law Enforcement Executives found that 15 of 41 agencies surveyed reported they had a special unit responsible for reporting or investigating bias crime. Neither the literature nor Abt Associates respondents identified more than a few prosecutor offices that now make bias crime a priority.

While most states have now passed legislation directed at bias crime, the types of statutes enacted vary in their provisions and potential effectiveness. Below is a summary of current legislation that addresses hate violence. Brief descriptions of the major law enforcement and prosecution efforts to make bias crime a priority follow.

Statutes

There are seven distinct types of statutes or statutory provisions that specifically address bias crime.

- Statutes making specific acts of intimidation criminal offenses. The most commonly prohibited acts are property damage to places of religious worship and cemeteries (21 states and the District of Columbia), cross burning (6 states), anti-mask or hood laws (11 states), and the formation of private paramilitary organizations (21 states).

- Statutes proscribing acts that are already criminal offenses but specifically prohibiting these acts when they are motivated by the victim's race, religion, or national origin. Most states have enacted such statutes, which may target assault, harassment, intimidation, or destruction or defacement of property. Almost none of these statutes include gay and lesbian victims of violence. However, in 1984, California and Seattle passed the first bias crime laws that specifically include protection for gays and lesbians. In California, an amendment added "sexual orientation," as well as "age" and "disability," to an existing law that already established the right to be free from violence due to race, religion, sex, and national origin. Attempts to enact bias crime legislation that includes gays and lesbians have been defeated in Oregon, Washington, Minnesota, and Illinois.

- Statutes imposing heightened penalties for criminal conduct when motivated by religious or racial bias. Several states have enacted such statutes, which typically upgrade the criminal status of a bias crime act from a misdemeanor to a felony, or to a higher level misdemeanor. Under Oregon's intimidation statute, a person who commits criminal mischief in the third degree is guilty of intimidation in the second degree if he or she was motivated by bias.

- Statutes which broadly proscribe interference with a person's civil rights. At least three states have such criminal statutes. The Massachusetts Civil Rights Act of 1979 prohibits intentional, forceful conduct; a violation of the statute can result in incarceration for up to ten years if even unintentional bodily injury results.

- Statutes providing for a civil cause of action specifically to individuals whose civil rights have been violated. While most states have generic civil remedies for torts, Idaho, Illinois, Massachusetts, New York, Oregon, Rhode Island, Washington, and some localities (e.g., Montgomery County, Maryland) have enacted such legislation. Comprehensive remedies, including damages for emotional distress, punitive damages, and costs and attorneys' fees are expressly allowed by some of these statutes. In most instances, these statutes authorize civil action only for acts of violence.

- Statutory provision permitting the Attorney General to seek injunctive relief on the victim's behalf. Massachusetts' Civil Rights Act of 1979 is unique in having this provision. The civil portion of the act (General Laws Chapter 12, Section 11H) provides for two remedies: authorization for victims to sue privately both for injunctive relief and for damages by hiring their own private attorney, and authorization for the Attorney General to file for a civil injunction to restrain the future behavior of the offender.

- Statutes mandating the collection of bias crime related data. A few states have now enacted such legislation. Maryland enacted the first and most comprehensive statute in 1981. The law requires the State Police to collect information on hate violence incidents from all local police agencies and the State Fire Marshall, and to provide monthly summaries of

these reports to the Maryland Human Relations Commission, which analyzes and disseminates the findings. Pennsylvania's Ethnic Intimidation and Statistics Collection Act of 1986 provides that local and state law enforcement officials report bias related incidents and crimes on a monthly basis to the Pennsylvania State Police Bureau of Community Services. Connecticut enacted a law in 1987 that requires the State Police to monitor, record, and classify all bias crimes starting July 1, 1988.

Law Enforcement Agencies

A number of police and sheriff's departments have made bias crime a priority.

- Boston Police Department. In response to growing problems of racial violence, in 1978 the Boston Police Commissioner established a Community Disorders Unit with responsibility for investigating bias crimes, seeking complaints, and assisting in their prosecution. The unit's responsibility now includes all aspects of bias crime. The unit has two sergeants, 11 other sworn officers, and four interpreters. Intensive investigation may include ride-alongs with victims, surveillances, rapid response operations (e.g., direct neighborhood telephone participation), going door-to-door to interview potential witnesses, and undercover operations. In most instances, the unit pursues cases criminally and civilly (under the state's Civil Rights Act of 1979). Through 1986, the unit had filed 155 charges, including 93 criminal charges and 62 civil charges, with a reported conviction rate of nearly 90 percent. Data are collected and computerized on the perpetrator's age and race, as well as the location and type of incident.

- New York City Police Department. In December 1980, the New York City Police Commissioner formed a Bias Incident Investigating Unit to monitor and investigate racially, religiously, and ethnically motivated acts. In July 1985, the unit's jurisdiction was expanded to include hate violence against gays and lesbians. The unit has three sergeants, sixteen investigators, and four police administrative aides. Line officers are required to report suspected bias incidents to precinct commanding officers or duty captains, who confirm the motivation and then report the crime to the Bias Unit. Borough commanders are also notified, and must visit each victim. Police

general orders provide detailed procedures for officers to follow in bias crime cases. The unit trains training officers who, in turn, make seven one-hour visits a year to each of the 75 precincts to provide similar in-service training.

- Baltimore County (Maryland) Police Department. This county law enforcement agency has detailed written policies and procedures that require line officers to report immediately crimes that appear to be motivated by ethnic, religious, or racial bias to community relations officers stationed at each of eleven precinct stations. Precinct commanders are also notified and charged with supervising the response and visiting the victim. Finally, the Intelligence Division is notified in order to verify the bias nature of the crime through review of the incident report and, if necessary, investigating the incident on its own. The Intelligence Division also notifies the Baltimore County Human Relations Commission, which activates its own victim assistance efforts that complement those of the community relations officers. All recruits and officers are given academy and annual in-service training in recognizing bias crime and written guidelines for making the determination. Intelligence Division officers teach about bias crime in the public schools and attend community meetings to encourage reporting of all hate violence activity.

- Kootenai County (Idaho) Sheriff's Department. The Sheriff's Department has targeted hate violence since 1982. Staff training and extensive intelligence gathering efforts are directed in particular at the activities of the Aryan Nations, which has its national headquarters in the county. The sheriff co-founded the Interstate Task Force on Human Relations, which includes Kootenai and Spokane (Washington) counties. Members represent law enforcement, human rights commissions, the U.S. Attorney in Spokane, clergy, and the public schools. The department is also the co-founder of Kootenai County Task Force on Human Relations, which provides victim support, public education, monitoring of incidents committed by juveniles, and school-based education. The undersheriff is currently forming a Northwest Coalition Against Malicious Harassment consisting of law enforcement executives, church officials, municipal, county and state

officials, and school superintendents in Idaho, Oregon, Washington, Minnesota, and Wyoming. The coalition will establish uniform crime reporting of hate violence activity in all five states.

- Nassau County (New York) Police Department. This agency has designated a command level administrator as Coordinator of Bias Incident Investigations; he supervises the investigation of all bias-related cases and acts as a liaison to community organizations. He receives information on new cases the next business day and discusses each case with the investigating detectives on a regular basis to suggest further steps and monitor progress. The Coordinator is also active in public education efforts to encourage reporting of bias crimes. He has initiated education programs for students and school officials, including development of a Students and Teachers Against Prejudice (STOP) program for seventh graders.

- San Francisco Police Department. In the San Francisco Police Department, the Mission District police station has made a concerted effort to address violence against gays among the predominantly upper-middle-class homosexual population of the Castro District. A succession of district captains has worked closely with Community United Against Violence (CUAV), a local advocacy organization concerned with community crime. Police provide CUAV with all hate crime police reports so that the organization can assist victims. In turn, CUAV staff encourage victims to report crimes to the police.

At the time of our review, a number of other law enforcement agencies had just begun to target bias crime, or were making efforts that had not been well reported. Brief mention of some of these departments is provided in Appendix B.

Prosecutor Offices

Some prosecutor offices in Massachusetts and New York have made bias crime an office priority.

- Queens County (New York) District Attorney's Office. In April of this year, the Queens County District Attorney established an Anti-Bias Bureau

staffed with four assistant district attorneys. The Bureau works through the Police Department's Bias Incident Investigating Unit (see above). Typically, the police Bias Unit contacts the Anti-Bias Bureau about a case by phone or by beeper (24-hours-a-day if the incident is very serious). If advisable, a bureau prosecutor will go on-scene or to the precinct stationhouse to interview witnesses. The bureau verifies that the incident is bias related. However, when considerable investigation has been necessary to determine whether a case is bias motivated, the bureau will keep the case even if it turns out not to involve hate violence because of the time it has already invested in the case. The Anti-Bias Bureau uses written protocols to determine whether an incident is bias related, and written procedures for handling cases. Currently, it has a caseload of 50 cases, about 60 percent of which are misdemeanors and 40 percent felonies.

- Massachusetts Attorney General's Civil Rights Division. The Civil Rights Division handles hate violence that violates the Massachusetts Civil Rights Act of 1979. Ninety percent of the division's cases under the act come from the Boston Police Department's Community Disorders Unit (see discussion above). Cases forwarded by this unit are not further investigated because of the detectives' track record in correctly determining whether a case is bias related; however, the division sometimes sends out its own investigators to confirm the cases referred by other police departments. Prosecution of violators of the Civil Rights Act is facilitated by having to prove guilt by a preponderance of the evidence rather than beyond a reasonable doubt. When the Civil Rights Division decides to seek injunctive relief authorized by the act, the procedure is as follows. The offender is given notice to attend a Superior Court hearing at which an assistant attorney general will request a preliminary injunction from the judge. In about one-third of the cases, the prosecutor obtains an ex parte temporary restraining order valid for ten days to cover the period between the date of service and the hearing. If the defendant wishes to be represented at the hearing, he or she has to hire a private attorney because the case is a civil matter. At the hearing, a preliminary injunction is usually issued. Following the hearing, the prosecutor and defendant typically negotiate a consent agreement in which the defendant agrees to

restrain from certain behaviors; this consent agreement in effect becomes a permanent injunction. If the defendant refuses to accept a consent agreement, or if the defendant contests the preliminary injunction, a date is set for another hearing at which the temporary injunction is made permanent. Violation of the injunction is a criminal offense for which sentence can be imposed and carried out within hours. Injunctive relief has been used in 35 cases since 1982 involving 118 defendants--including juveniles as young as 13 years old. There have been 12 violations, with a number of violators sentenced to up to 10 days in jail.

- Suffolk County (Mass.) District Attorney's Office. As noted above, the Massachusetts Attorney General's Office works closely with the Boston Police Department's Community Disorders Unit on violations of the civil provisions of the state's Civil Rights Act. Because Boston is located in Suffolk County, the Suffolk County District Attorney works closely with the Community Disorders Unit on criminal violations of the act. The Community Disorders Unit telephones either the director of the nine district courts in the county or the director's deputy before forwarding a case; they confer on whether there is enough evidence to file the case as a civil rights violation. The director or first assistant deputy then assigns the case to the prosecutor in charge of the district court in whose jurisdiction the incident occurred. Five to ten cases are filed each month.

- Norfolk County (Mass.) District Attorney's Office. The Norfolk County District Attorney has established a Civil Rights Unit comprised of a unit director, two other prosecutors, and three support staff. The unit investigates and prosecutes violations of the criminal provisions of the state Civil Rights Act. Unit staff have trained a number of police departments in the county in how to recognize bias crimes and conduct effective investigations. The unit has drafted a model civil rights policy for police departments in the county that has so far been adopted by a few police agencies. The unit has worked with each police agency in the county to designate a Civil Rights Officer to serve as the police department's liaison to the Civil Rights Unit.

ISSUES AND NEEDS

Abt Associates respondents and the literature identified a number of unresolved issues that need to be addressed for the criminal justice system to deal with bias crime more effectively. These issues--summarized below--concern data collection and reporting, law enforcement and prosecutor initiatives, and needed statutes.

Data Collection and Reporting

One of the most pressing considerations related to bias crime is the need for adequate data.

Accurate and complete data are needed to understand the severity, pattern, and location of bias crimes. With improved data collection, law enforcement officials and prosecutors will be better able to make appropriate resource allocation decisions and to target specific neighborhoods or organizations for special attention.

As of the end of 1987, only Maryland and Pennsylvania had statutes in effect that mandate the reporting of bias crimes by local police departments. The NOBLE report found that most law enforcement agencies do not keep separate records of bias crimes--for example, they report a cross-burning as arson or a swastika painted on a synagogue as vandalism. While several private organizations tabulate bias incidents, we learned about only one national organization, the Anti-Defamation League, that has a formal reporting system (thirty regional offices use a standard report form to forward data to the national headquarters).

A major problem with data collection on bias crime is underreporting. Many victims of bias crimes, we were told, do not report incidents to the police because they distrust the police, feel that the incident is too minor to report or that the police cannot do anything about it, have a language barrier, fear retaliation by the offender, or--in the case of gays and lesbians--fear public exposure.

Abt Associates respondents identified four key issues that must be resolved for any data collection effort to succeed: defining bias crime, identifying the data elements to collect, designing a data collection system (e.g., forms and routing procedures), and selecting the most appropriate group or groups to collect, analyze, and disseminate the data.

The starting point for data collection efforts should be establishing an accurate and workable definition of bias crime. Otherwise, no group can provide reliable and valid reports of bias incidents. Furthermore, if different jurisdictions

define bias crime differently, any multi-jurisdictional comparison of data will be misleading.

A working definition developed by the California Racial, Ethnic, and Religious Crimes (RERC) Project identifies a reportable bias crime as "any act to cause physical injury, emotional suffering, or property damage, which appears to be motivated, all or in part, by race, ethnicity, religion, or sexual orientation." The National Organization of Black Law Enforcement Executives defines a racially or religiously targeted incident that warrants police investigation as "an act or a threatened or attempted act by any person or group of persons against the person or property of another individual or group which may in any way constitute an expression of racial or religious hostility. This includes threatening phone calls, hate mail, physical assaults, vandalism, cross burnings, firebombings and the like." The International Association of Chiefs of Police also uses the definition developed by NOBLE.

Closely-related to the issue of defining bias crime is the need to develop guidelines for first-line responders and follow-up investigators to be able to determine whether an incident is bias-related. Because identifying motives is so difficult, the Baltimore County and the New York City Police Departments have developed a series of written questions for officers to consider in determining whether a crime is bias related. However, more information is needed on which specific guidelines have proven most useful and easiest to apply, and what minimal investigatory effort is needed to make this determination. The following are the more common guidelines recommended for identifying whether a crime is bias related:

- common sense (e.g., when a cross is burned on the lawn of a minority family that has just moved into an all-white neighborhood)
- language used by the suspect (although language by itself may not always prove bias--racist slurs can be uttered in the heat of an argument or fight that was initiated for other reasons, and language that is not threatening may not be a crime)
- severity of the attack (e.g., mutilation)
- lack of provocation
- previous history of similar incidents in the same area
- absence of any other apparent motive (e.g., battery without robbery).

A data collection system must identify the data elements regarding the crime that should be recorded. For example, recording the location of each incident would appear to be essential for identifying patterns and determining where to allocate police and community resources. Identifying the nature of the offense is also vital; otherwise, it is easy to misjudge the seriousness of the incidents reported. Officials in Maryland had been under the impression that most acts of hate violence in the state involved vandalism or verbal abuse. However, the data that were later collected documented that physical assault played a major role in many of the incidents, raising the level of concern about the problem. Boston's Community Disorders Unit collects information on yet another significant variable--the number of repeat incidents. This information is useful for determining patterns of hate violence--important when bringing a civil action against a perpetrator--as well as in assessing the effectiveness of current police and prosecutor responses.

An effective system for the actual recording and reporting of the desired information must be designed. For example, decisions must be made regarding how the desired information will be recorded and how the classification will be verified. Adding to the paperwork requirements of the individual patrol officer is reported to be a serious concern.

Who should collect, analyze, and report the information must also be carefully thought out. The first report of a bias incident can be made by the police, community organizations, or state or local human relations commissions. These three groups can also serve as collectors of the data, providing a central repository for the information and staff for analyzing and disseminating the information. Communities that have worked out reporting systems have police and human rights associations involved together in cross-reporting.

States like Maryland and Pennsylvania that collect data statewide rely on police reporting. Advantages of police reporting are that law enforcement agencies, unlike most community groups, are concerned with the entire community, and they can verify whether an incident is in fact a bias crime. However, when the police are responsible for reporting bias crimes, the officer at the scene determines whether an incident is bias related. Some of the Abt Associates respondents reported that officers sometimes fail to recognize the bias component or simply do not record it, resulting in unreliable data. Another disadvantage of relying on police reporting is that, as noted, many victims do not report incidents to law enforcement agencies.

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Some Abt Associates respondents pointed out that many of these victims, however, will report the crime to a community group, suggesting that constituency organizations or human rights commissions may be well suited to collect and report bias crime data. However, these organizations rarely investigate the claims of victims, and sometimes their criteria for what constitutes a bias incident differ from the criteria police use. Furthermore, data compiled and publicized by constituency groups are sometimes seen as self-serving and therefore suspect.

An alternative role for constituency organizations is to encourage victims to report incidents to the police but at the same time to share with their local law enforcement agency any cases they learn about independently. For example, the Montgomery County (Maryland) Police Department and the local Human Rights Commission have a written agreement to share information on cases.

At the state level, either the human rights commission, the state police, or the state department of justice can take responsibility for compiling the data and supervising its collection at the local level. In Maryland, the State Police receive the data from local law enforcement agencies, compile it, and then forward it to the Maryland Human Relations Commission for analysis and dissemination. By contrast, California's Racial, Ethnic, and Religious Crimes Project recommended that the state Department of Justice supervise the state's data collection and dissemination effort.

Law Enforcement

There are compelling reasons for police agencies to target hate violence.

- By developing a reporting system for bias crimes, departments can obtain advance warning of when an apparently trivial hate violence incident may, if ignored, escalate into full-scale community violence.
- Targeting bias crime can improve relations with community leaders, for example, by documenting to each constituency group that "its cases" are being fairly investigated compared with incidents against other groups.
- Demonstrations of concern for victims, such as recontacting them to ask how things are going, can improve a department's image in the community.

Abt Associates respondents felt that most police administrators may have reasons for <u>not</u> singling out bias crime. These reasons include:

- Concern that collecting data on hate violence will be used against the department and against public officials either to damage the community's image, or to document a serious community problem which responsible authorities will be accused of having neglected.
- Reluctance to saddle officers with increased paperwork and recognition of the complexities in determining motivation.
- Disinclination to divert resources from other law enforcement responsibilities--that is, competing priorities.

In the view of the Abt Associates respondents, police executives need to resolve a number of issues in order to develop an effective response to bias crime.

(a) What steps should law enforcement agencies take to target bias crime? The National Organization of Black Law Enforcement Executives (NOBLE) has developed a model law enforcement response to racial and religious violence that lays out the elements of a comprehensive police response. This model presents "a range of standards...for consideration by each agency, based on its own resources and priorities." It may be particularly important for police administrators to determine the minimum activity necessary to have a significant impact on the hate crime problem in their community. Abt Associates respondents confirmed conclusions from the NOBLE study that the following six steps are critical:

- Systematic data collection regarding the number, location, and nature of bias incidents in the community.
- Police training in the definition and identification of bias crime, and the importance of collecting bias crime data.
- Increased resources devoted to the investigation of bias incidents.
- Activities designed to encourage victims to report bias crime.
- Designation of a liaison to the affected community.
- Collaboration with the community to prevent bias crime and its escalation.

Police administrators need to know under what circumstances a special bias unit should be set up. NOBLE has suggested that the key considerations are available resources, the frequency, scope, and severity of hate violence incidents, the community's perception of bias crime as a problem, and alternative methods available to address the problem.

To give added emphasis to a unit's importance, most police departments have them report directly to the chief or another very high ranking administrator. In addition, placing a high ranking officer in charge of the unit facilitates getting resources for the unit and promotes increased respect from the public. The New York City Police Department gave prominence to its Bias Incident Investigating Unit by replacing the captain who ran . . with an inspector whose rank is two steps above that of captain.

An alternative to a specialized unit is to designate a senior detective as the coordinator of bias-related crime investigations. This is the approach taken by the Nassau County (New York) Police Department. (See Section 2.1 above.)

(b) What can police officers do about harassment that is not a bona fide crime? To begin with, officers need accurate information regarding what is and is not a crime in their local jurisdiction, such as verbal harassment, harassing telephone calls, and name calling. For example, even without a threat, verbal harassment is a criminal offense in New York State punishable by up to 15 days in jail; harassment on the telephone is aggravated harassment punishable by up to a year in jail. However, in jurisdictions in which a threat must accompany verbal harassment to constitute a crime, the distinction between what is criminal behavior and what is not may be unclear.

Many observers recommend that non-criminal harassment be taken seriously and reported even if it cannot be prosecuted because the incident may be the first act in a pattern of behavior that can escalate if not closely monitored. Offenders sometimes begin with minor harassment to test the response of the community, including the police. If police, especially in conjunction with community organizations, respond swiftly and sternly, more serious acts can often be nipped in the bud. Furthermore, in the view of several Abt Associates respondents ignoring verbal harassment tacitly tells offenders and the community that this behavior is either acceptable or at least does not represent serious wrongdoing. As a result, the Baltimore County Police Department written procedures for handling bias crimes instruct officers to report any non-criminal act done with the intention to "harass, intimidate, or create racial, religious, or ethnic conflict."

Alternative solutions to verbal harassment need to be explored, such as working with the community to find a remedy or having a local human relations commission mediate the problem.

(c) How should juvenile offenders be dealt with? As noted, a large percentage of hate crimes are committed by teenagers and young adults. In most of the law enforcement agencies we interviewed that have made bias crime a priority, it is department policy to treat youth--whether over or under the statutory definition of a minor--the same as adults and arrest them when they commit bias crimes.

However, there are disagreements over the best way to handle offenders who the police believe are basically "good kids" who did not realize the seriousness of their offense. Some feel it is best to handle them leniently in order not to saddle them with a criminal record at an early age. Others say these youth are already treated too leniently. Most Abt Associates respondents felt that there should be a middle ground between a lecture from the bench and jail. However, different respondents advocate different alternatives, including fines, restitution, community service (possibly in the setting in which the offense occurred), and working through parents.

Another avenue for dealing with juveniles is through civil injunctions. As noted, the Massachusetts Civil Rights Act of 1979 permits the Attorney General to seek injunctive relief against juveniles of any age for violations of the act. Use of an injunction enables the court to avoid giving juveniles a criminal record yet makes it possible to regulate their future behavior with the threat of immediate and severe criminal sanctions (often jail) if they violate the injunction. Nonetheless, outside of Boston few jurisdictions in the state take advantage of the law.

(d) How can beat officers be motivated to determine whether an incident is bias related and then report it as a bias crime? Several Abt Associates respondents reported that many police officers and deputy sheriffs may be reluctant to become involved in targeting bias crime because they do not feel that most incidents are serious enough, may dislike the increased paperwork involved in reporting bias incidents, and may find it frustrating to determine whether a crime is motivated by bias. In addition, we were told that some officers may not target bias crime because, like others in the community, they share some of the negative attitudes of the perpetrators toward minority groups.

There is a need to document effective means of motivating beat officers to identify bias crimes as such. Without this initial flagging of the problem, there is little the criminal justice system can do about hate violence. Abt Associates respondents recommended further examination of the effectiveness of the following motivational approaches:

- An unequivocal and well-publicized commitment by the chief law enforcement executive to combatting bias crime.

- Training in the reasons and procedures for targeting bias crime in order to gain the cooperation of the beat officer.

- Transferring, disciplining, and, if necessary, firing officers who fail to follow department policy regarding the handling of bias crime. Further research is needed into appropriate and effective disciplinary responses to failure to perform, especially with regard to officers who are members of hate groups. The official response has been varied, with some officers dismissed from some departments when their membership became known and others transferred to non-patrol duties.

(e) How can law enforcement agencies develop a workable procedure for officers to record whether an incident appears to be a bias crime? The simpler the procedure for reporting bias crimes, the more likely officers will be to report them. The Boston Police Department provides a block on its report form for indicating a suspected bias crime, but it had to reprint all its forms to do so. To avoid this expense, the San Francisco Police Department may create a stamp for indicating a bias crime. The San Jose Police Department has long used an existing box on its report form--"modus operandi"--for recording whether an incident is a suspected bias crime.

(f) What kind of training do law enforcement officers need? While everyone agrees that training is essential for law enforcement agencies to be effective in combatting bias crime, there are a number of unresolved issues related to the type of training needed.

- Police agencies need assistance deciding what the training should focus on.

- Who conducts the training is extremely important. Some observers feel members of victimized groups are best equipped to conduct at least some of the training. Others believe that trainees become defensive when addressed by representatives of minority groups and that in-house personnel should therefore do the training.

- Much of the training that occurs consists of lectures (e.g., at role calls). Yet, practice in developing new behaviors and skills appears to be important. NOBLE is currently developing approaches to training police in this area.

- There is debate regarding whether training should focus on trying to change officers' attitudes or their behavior, especially given the small amount of training time typically available.

- Training must start at the executive level. However, it is not clear how best to orient police administrators.

(g) What kinds of ties do law enforcement agencies need to develop with the community? While no police agency can address the problem of bias crime successfully by itself, there are more ways to involve the community in the solution than most departments have the time to implement. An important issue is therefore which types of linkages are most effective for particular communities.

- The appointment of a liaison within the department to respond to requests for help and information from the community.
- Working with community support groups or with a victim assistance agency to pay special attention to victims of bias crime.
- Initiating or participating in community task forces on hate violence.
- Participation with community leaders in public forums on hate violence.
- Exchanging information about bias crime incidents and victims with community groups.
- Establishing close ties with key minority community leaders who can be called on later for assistance in dealing with a bias incident.

Police need to identify clearly what their objectives are in developing or expanding ties with the community, such as obtaining assistance in persuading reluctant witnesses or victims to testify; learning about bias incidents not reported to the police in order to detect patterns of hate violence activity; preventing negative publicity in the press over the handling of bias crimes; making sure the community receives accurate information about incidents as they occur; and encouraging reporting of crimes by minority victims.

(h) How can law enforcement agencies stimulate increased reporting of bias crime? Many minority groups are said to be reluctant to report crime. Among the approaches for generating increased reporting mentioned by our the Abt Associates respondents and in the literature are the following:

- Public statements by police officials (preferably in concert with public officials) urging minorities to report crimes and promising an effective police response. The Mayor of Boston and the city's Police Chief both made widely publicized statements that hate

violence would be vigorously prosecuted if victims would report incidents.

- Distribution of public information materials, such as flyers and posters, and placement of PSA spots on radio stations with large minority audiences.
- Presentations to minority organizations.
- General recruiting practices to bring diverse or target groups into the Department's employment pool.

Prosecution

Prosecutors must address fewer issues than police in targeting bias crime but the issues are no less serious.

(a) What will motivate prosecutors to devote special resources to hate violence cases? According to some prosecutors, failure to pay attention to apparently trivial incidents can lead to an escalation of violence that can embarrass a prosecutor--as one district attorney put it, "If you're caught short, you'll be caught way short, with the public up in arms about why you didn't do something to prevent the problem." More positively, some district attorneys have received good press when--sometimes much against their will--they have gone after bias crime cases aggressively. A district attorney who initially refused to prosecute a member of the Ku Klux Klan because of widespread community sympathy for the organization was eventually pressured into filing charges. After winning the case, the prosecutor found he received more positive than negative support from the press and public for his action.

(b) How can prosecutors investigate cases sufficiently to win convictions? According to some prosecutors, cases brought by special police bias units are generally well investigated but those brought by other officers are frequently not. Prosecutors noted that police sometimes do not collect all the needed physical evidence, verify bias language used by the alleged offender, or line up reliable witnesses. While the prosecutors acknowledge that police have limited resources for investigating and conducting forensic tests on any given case, the result sometimes forces prosecutors to dismiss the charges or plea bargain.

(c) How can prosecutors secure meaningful sentences from judges? We were told that most district attorneys who target bias crime generally charge the highest

possible charge, avoid plea bargaining (unless the case is weak), and ask for severe sanctions--often a jail sentence for an assault with injury or with a second offender. However, a few prosecutors report sometimes being frustrated by judges who impose more lenient sentences than the prosecutors would like.

(d) What are the training needs of prosecutors? Most of the prosecutors we interviewed did not feel they needed any special training to handle hate violence cases. However, other observers felt prosecutors need training to realize that bias crimes need to be taken seriously and prosecuted vigorously.

Further, some Abt Associates respondents felt that prosecutors also need to learn how to deal with defense tactics (claiming a compromised victim, self-defense, or temporary insanity). The prosecutor in the Howard Beach case successfully overcame such strategies. At the end of one trial, involving the murder of a homosexual, in which such tactics were used, the judge was reported to have told the jury that "If this had not been a jury trial, my decision as judge would have been different from yours . . . . I would have found first-degree murder."

Legislation

It is not clear how helpful to police and prosecutors special statutes targeted to bias crime really are nor how effectively they are being used.

(a) Is special legislation needed to address bias crime? Some commentators believe that existing laws are adequate to prosecute and punish bias crime offenders, including the use of "generic" statutes against arson, assault, battery, murder, mayhem, trespass, threats, and intimidation. According to this view, what is needed is political will on the part of dedicated police and prosecutors to enforce existing laws. Some critics of bias crime legislation also argue that hate violence statutes amount to "special protection" for certain groups. Harrassment, assaults, and vandalism, they contend, should be treated sternly regardless of who the victim is--"a crime is a crime."

Many Abt Associates respondents, however, believe that at least some types of special statutes are needed. Reports issued by the National Organization of Black Law Enforcement Executives, the California Attorney General's Office, the Washington Lawyer's Committee for Civil Rights Under Law, the Southern Poverty Law Center, and the Anti-Defamation League all reach this conclusion.

One element of the question of special legislation against bias crime concerns what groups should be covered. At present, the focus of this debate is whether gays and lesbians should be explicitly included in state bias crime legislation. Some Abt Associates respondents reported that excluding this group either condones bias crime based on the sexual orientation of the victim or suggests that it does not exist. However, recent bias crime legislation introduced in New York State was defeated at least in part because the bill included protection based on sexual orientation; attempts to amend existing bias crime statutes to include homosexuals have been voted down in other states. This suggests it may be politically difficult to include homosexuals in state statutes.

(b) What are the specific advantages of each type of bias crime legislation? Proponents of special legislation say they need compelling arguments organized in an accessible manner in order to advocate effectively for the passage of each type of special statute, or each component of a model statute. Fence-sitters and opponents of special legislation need to be convinced to support new statutes. Arguments that need further elaboration according to Abt Associates respondents include the following:

- Upgrading the criminal status of a bias crime from a misdemeanor to a felony may encourage police, prosecutors, and judges to investigate, prosecute, and sanction hate violence more vigorously.
- Increasing the penalties for existing bias crimes conveys an official message to the public that hate violence is a serious offense, not a harmless prank.
- A civil rights statute permitting injunctive relief at the state's request enables prosecutors and judges to regulate the behavior of youthful offenders closely without giving them a criminal record.
- Mandatory data collection is necessary to document to skeptical criminal justice system personnel--and to many disbelieving segments of the general public--that hate violence is a problem in their community that requires special attention.

(c) What problems have there been with the implementation of existing statutes that suggest the need for amendments? Abt Associates respondents report that the Massachusetts Civil Rights Statute works well. However, there have been problems with the implementation of statutes in some other states. Proponents of special statutes need a detailed summary of these and other difficulties police, prosecutors, and judges have experienced with the laws, and recommendations for solving them.

(d) Have statutes helped reduce hate violence? Given the significant problems inherent in reporting bias crime (see discussion in Section 3.1, Data Collection and Reporting), the impact of special statutes is difficult to assess. Anecdotal evidence suggests that the Massachusetts Civil Rights Act has reduced hate violence in Suffolk County (Boston) and Norfolk County (suburban Boston). Useful information could be obtained in other jurisdictions that documents at least the extent to which special statutes have been used, and how often the government has won these cases.

Appendix A

Respondents

Criminal Justice System Respondents (n=21)

Larry Broadbent
Undersheriff
Kootenai County Sheriff's Department
Coeur D'Alene, Idaho

Michael Lennon
Commander
San Francisco Police Department
former Precinct Captain of Mission District

Michael Markman
Inspector and Commanding Officer
Bias Incident Investigating Unit
New York Police Department

William Johnston
Sergeant and Unit Chief
Community Disorders Unit
Boston Police Department

Kenneth Carey
Inspector
Nassau County (New York) Police Department
Coordinator of Bias Incident Investigations

Elizabeth Care Long
Detective
Intelligence Unit
Baltimore County (Maryland) Police Department

Edgar Richards
Major and Director
Bureau of Community Services
Pennsylvania State Police

Chuck Wexler
Director
Professional Development Division
International Association of Chiefs of Police
former staff, Boston Police Department Community Disorders Unit

Elsie Scott
Executive Director
National Organization of Black Law Enforcement Executives (NOBLE)
Washington, D.C.

Darrel Stephens
Executive Director
Police Executive Research Forum
Washington, D.C.

Don Peri
Research Analyst
California Department of Justice
Director, Racial, Ethnic, and Religious Crimes Project

James Hubert
Assistant District Attorney
Chief, Anti-Bias Bureau, Queens County (New York) District Attorney's Office

Maria Lopez
Assistant Attorney General
Civil Rights Division
Massachusetts Attorney General's Office

Michael Joyce
Assistant District Attorney
Director of District Courts, Suffolk County (Massachusetts) District Attorney's Office

Charles Hely
Assistant District Attorney
Chief, Civil Rights Division, Norfolk County (Massachusetts) District Attorney's Office

Jacqueline Schafer
Liaison to the Gay and Lesbian Community
Manhattan District Attorney's Office

David Coldren
Executive Director
Illinois Criminal Justice Information Authority

William Kelley
Director, Georgia Criminal Justice Coordinating Council

Peter Haynes
Executive Director
Arizona Criminal Justice Committee

G. Albert Howenstein
Executive Director
California Office of Criminal Justice Planning

Patrick Hamilton
Director
Massachusetts Committee on Criminal Justice

Appendix A
(continued)

Constituency Organization Representatives
(n=15)

Joan Weiss
Executive Director
National Institute Against Prejudice and Violence
Baltimore, Maryland

Trish Donahue
Criminal Justice Specialist
Human Rights Resource Center
San Rafael, California

Patricia Clark
Executive Director, Klanwatch
Southern Poverty Law Center
Montgonery, Alabama

Kevin Berrill
Director, Anti-Violence Project
National Gay and Lesbian Task Force
Washington, D.C.

David Wertheimer
Executive Director
Gay and Lesbian Anti-Violence Project
New York, New York

Diane Christensen
Executive Director
Community United Against Violence
San Francisco

Nancy Hunter
Director, Gay/Lesbian Rights Project
American Civil Liberties Union
New York, New York

Alan Schwartz
Director, Research Department
Anti-Defamation League of B'nai B'rith
New York, New York

Althea Simmons
Director, National Association for the Advancement of Colored People
Washington, D.C.

Dr. Samuel Myers
Executive Director
National Association for Equal Opportunities in Higher Education
Washington, D.C.

Margaret Fung
Executive Director
Asian-American Legal Defense and Education Fund
New York, New York

Joanne Anderson
Director of Community Relations
Maryland Human Relations Commission
Baltimore, Maryland

Vernon Manley
Director, New York City Bias Response Team
New York City Human Rights Commission

Wallace Warfield
Director, U.S. Department of Justice
Community Relations Service Office,
Washington, D.C.

Fred Persily
private consultant to Contra Costa County (California)

Appendix A
(continued)

Researchers
(n=4)

Gary Marx
Professor of Urban Studies
and Planning
Massachusetts Institute of Technology

David McKirnen
Professor of Psychology
University of Illinois at Chicago

Albert Reiss
William Graham Sumner Professor
of Sociology
Yale University

Wesley Skogan
Professor of Political Science
and Urban Affairs
Northwestern University

Appendix B

Selected List of \dditional Criminal Justice Agencies That Target Bias Crime

- In December 1986, the Philadelphia Police Department formed a Conflict Prevention and Resolution Unit to track and investigate bias crimes. In June 1987, the Police Commissioner ordered the department to give "priority attention" to the investigation of bias crimes.

- The Mayor of Los Angeles announced in June 1987 that the Los Angeles Police Department will make a special effort to identify and index bias crimes. The department will train its officers to be alert for signs of bias in the crimes they are investigating. The department will share its bigotry-related crime reports with civil rights groups and with local human relations commissions.

- The Howard County, Maryland, Police Department implemented a bias-crime policy in 1987 that includes telling officers what to look for when investigating incidents that may be bias related and reporting them to the local human rights commission.

- The Houston Police Department established a written policy for handling crimes in 1982 that requires immediate action by both the community services division and the intelligence division when a hate crime occurs. Incidents are brought to the chief's attention immediately.

- In 1981, the Providence, Rhode Island, Police Department established an undercover unit called the Terrorist-Extremist Suppression Team to track Klan, neo-Nazi, and other extremist groups and investigate all complaints of harassment which fall under hate violence laws.

- The Opa-Locka, Florida, Police Department instituted a department policy in 1982 that requires a patrol unit to be dispatched to each hate violence call, a special unit to investigate the incidents, and a public awareness campaign to prevent bias crime.

- Each troop of the Pennsylvania State Police has community relations officers who specialize in the investigation of "ethnic intimidation" incidents. Municipal jurisdictions may request their assistance for investigation of local incidents. The Pennsylvania State Police Bureau of Community Services holds classes for municipal police officers about response to and investigation of ethnic intimidation incidents and crimes, and has done so for a number of years. The Bureau also practices community outreach programs, in cooperation with the state Human Relations Commission.

- The Community Relations Service Office of the U.S. Department of Justice acts as a neutral third party, going into communities that are experiencing trouble because of racial or ethnic incidents. The office is primarily involved in conciliation and mediation efforts, working with local groups to promote greater understanding within the community.

- Efforts targeting bias crime are also reported to be underway or well established in Toledo, Ohio; Minneapolis; Chicago; Seattle; Georgia; and San Jose.

Appendix B
(continued)

- The San Francisco District Attorney's Office trains assistant district attorneys in countering the "homosexual panic defense" (the claim of self-defense in response to a gay sexual advance) and in selecting juries for gay-related cases.

- The Manhattan District Attorney's Office has established a Liason to the Gay and Lesbian Community, whose job includes encouraging gays and lesbians to report crimes to the criminal justice system. The Liason also coordinates with the New York City Police Bias Incident Investigations' Unit, works with the New York City Anti-Violence Project and the Crime Victims Board, and trains assistant district attorneys in prosecuting anti-gay and anti-lesbian violence.

Appendix C

Resources

General Reports

- "Racial and Religious Violence: A Model Law Enforcement Response," National Organization of Black Law Enforcement Executives, September 1985.
- "Racial and Religious Violence: A Law Enforcement Guidebook," National Organization of Black Law Enforcement Executives, March 1986.
- "First National Conference on Prejudice and Violence in America: Proceedings of Plenary Sessions," National Institute Against Prejudice and Violence, September 1986.
- "They Don't All Wear Sheets: A Chronology of Racist and Far Right Violence--1980-1986, Center for Democratic Renewal, 1987.
- "Intimidation and Violence: Racial and Religious Bigotry," a statement of the United States Commission on Civil Rights, January 1983.
- "The Status of Bigotry and Violence in Southwestern and Southeastern Pennsylvania in the Mid-1980s. A Briefing Memorandum to the U.S. Commission on Civil Rights from the Pennsylvania Advisory Committee," March 1986.
- "Responding to Hate Crimes: An Information Summary from the Human Rights Resource Center," n.d.
- "Bias-related Crime: Ripping at Society's Fabric," a three-part series by Jennifer Nislow in Law Enforcement News, March and April 1987.
- "Anti-Gay Violence: Causes, Consequences, Responses," a White Paper by the Violence Project of the National Gay and Lesbian Task Force, 1986.
- "When Hate Groups Come to Town: A Handbook of Model Community Responses," Center for Democratic Renewal, 1986.
- "The Hate Movement Today: A Chronicle of Violence and Disarray," Anti-Defamation League of B'nai B'rith, 1987.
- "Final Report of the Governor's Task Force on Violence and Extremism," Annapolis, Maryland, January 1987.
- "A Framework for Locally Planned Responses to Instances of Racial and Religious Animosity," Metropolitan Washington Council of Government, April, 1982.
- "Final Report: Attorney General's Commission on Racial, Ethnic, Religious and Minority Violence," California Department of Justice, April 1986.

Appendix C
(continued)

- "Models for Management: Racial, Religious and Ethnic Violence," The International Association of Chiefs of Police, February, 1987.

Data Collection Efforts

- "Racial, Ethnic, and Religious Crimes Project: Preliminary Steps to Establish Statewide Collection of Data," California Department of Justice, January, 1986.
- "Idaho Hate Crime Uniform Crime Reporting System," Kootenai County, Idaho.
- "Audit of Anti-Semitic Incidents," Anti-Defamation League of B'nai B'rith, 1985 and 1986.
- "The Ethnoviolence Project: Pilot Study," National Institute Against Prejudice and Violence, October, 1986.
- "Anti-Gay/Lesbian Victimization," National Gay and Lesbian Task Force, June 1984.
- "Klanwatch Intelligence Report," Southern Poverty Law Center.
- The National Institute Against Prejudice and Violence collects incidents from newspaper article and reports submitted irregularly by police departments.

Statutory Reviews and Model Statutes

- "Striking Back At Bigotry: Remedies Under Federal and State Law for Violence Motivated by Racial, Religious, and Ethnic Prejudice," National Institute Against Prejudice and Violence, May 1986.
- "Civil and Criminal Remedies for Racially and Religiously Motivated Violence." The Washington Lawyers' Committee for Civil Rights Under Law, 1983.
- "Racially-Motivated Violence and Intimidation: Inadequate State Enforcement and Federal Civil Rights Remedies," by Gregory L. Padgett, The Journal of Criminal Law & Criminology, 1984, Vol. 75, pp. 103-138.
- "ADL Model Statute: Ethnic Vandalism and Intimidation," the Anti-Defamation League, 1985.

PANEL CONSISTING OF COL. LEONARD SUPENSKI, CRIME PREVENTION BUREAU, BALTIMORE COUNTY POLICE DEPARTMENT, AND MURRAY FRIEDMAN, ACTING CHAIRMAN, U.S. COMMISSION ON CIVIL RIGHTS

Senator SIMON. And our final panel, Col. Leonard Supenski and Mr. Murray Friedman. Colonel Supenski is with the Baltimore County Police Department with the Crime Prevention and Reduction Division, and with a good name like Supenski you should be from Illinois, instead of Maryland, Colonel.

STATEMENT OF COL. LEONARD SUPENSKI

Colonel SUPENSKI. Good morning, Mr. Chairman. I'd like to thank you for your invitation to come here this morning in support of the bills.

I am Col. Leonard J. Supenski, Baltimore County Police Department's Crime Prevention bureau chief, and I'm testifying, here, this morning, in support of S. 702, S. 797 and S. 2000 representing our county executive, Dennis Rasmussen, the chief of police, Cornelius J. Behan. Chief Behan also is the president of the Police Executive Research Forum, whose strong support for this bill, I'm also conveying this morning.

There's victim trauma associated with any crime. However, the vulnerability of being singled out solely for what you are and the potential for that type of act to be repeated, is emotionally devastating.

The Maryland General Assembly passed legislation in 1980 requiring local law enforcement agencies to report all RRE incidents, the first such legislation in the country and such incidents are required to be reported to the Maryland State Police through the uniform crime report process.

Before this legislation there was no reliable way to determine the nature and the scope of the problem in Maryland. Civil rights organizations only collected statistics through media accounts and victim calls for assistance.

Police, when they did record such incidents, generally did so in a general manner. That is cross burnings were reported as arson, synagogue defacements might be reported as destructions of property.

Prior to 1981, we could not measure the problem in Maryland nor in Baltimore County. Now we can. Much has been said this morning about what can, or what should be done and what cannot be done.

Well, I'm here to tell you what we are doing and what we have been doing, and we've been doing it for the last 6 years in Baltimore County.

RRE incidents continue to be vastly under reported for many reasons. Victims fail to report incidents to avoid the criminal justice process, the formal process. They often lack confidence in their police. They fear reprisals.

Police often do not understand the complexities of RRE incidents. They lack the training and experience to differentiate these from other crimes.

There has to be commitment and there has to be commitment from the top down if such a system is going to work. Data collection is the crucial element in that process.

A successful reporting system will help identify the nature of prejudicial and hate-motivated activity. We must have reliable information. Who is involved, what happened, what does it look like, where is it happening, how often, to how many victims and by whom?

Data will define your problems. It'll define the target, the causes and, most importantly, the courses of action. The answer to those questions are important in assessing the needs of the victim in the community, as well as determining the appropriate police and governmental responses.

There are two, I believe, important benefits to be derived—again we're talking experientially here—from a reporting system.

The first is strategic. A view of the problem can be obtained before it becomes a crisis in a community. Long-term nonreactive strategies, such as education, such as crime prevention, can be developed from that information.

Tactically, the benefit to police departments comes in the form of identifying the scope and nature of the problems so that you can plan your resources—that is your personnel, your equipment, your tactics—to deal with that.

It will ensure improved clearance rates for RRE related crimes. We do it and we have had such clearances. Most importantly, I believe, it gives a message to victims of RRE hatred. The government cares.

No system is without problems—no reporting system. From our own experience we can talk about a few of them. A uniform systematic reporting procedure must be in place in all agencies. They must all participate. That's essential.

Problems can stem from any of the following, when you are talking about a reporting law, sir: lack of a clearly stated purpose—what do we want from the law? What do we expect of it?

A lack of sanctions for noncompliance. The law should have teeth. A lack of uniform criteria in definitions which can lead to such things as under reporting, over reporting or worse yet, no reporting.

There must be sufficient funding available to operate the system—that is, adequately authorized and clearly appropriated funds—if the intended legislation is to be realized.

And, lastly, there must be specialized training. Reporting RRE incidents by nature involves police discretion and judgment. We talked about that earlier today. The police must be properly trained to recognize hate crimes for what they are.

Bias incidents create fear that doesn't fade, doesn't disappear, that lingers, that spreads, that permeates. Such acts are intended to intimidate. Police are the most visible arm of government, police are the first call when an incident occurs and the first to respond and at that point our procedure begins.

The crucial first step, however, in the resolution of any such incidents over a long term is reporting. We believe that S. 797, S. 2000 and S. 702 provide a focus for direction at the Federal level, one that can be emulated by State and local governments.

Any reporting system is better than no reporting system. And this legislation is clearly preferable to continued ignorance. Accordingly, we support these bills, and I'd be glad later to answer any questions that you might have.

[The prepared statement of Col. Leonard Supenski follows:]

PREPARED STATEMENT OF COL. LEONARD SUPENSKI

HANDLING INCIDENTS MOTIVATED BY RACIAL, RELIGIOUS, OR ETHNIC PREJUDICE

IDENTIFICATION OF THE PROBLEM

Acts motivated by racial, religious, and ethnic (RRE) prejudice threaten the democratic foundations of our society. Directed against individuals or groups purely because of their race, religion, or ethnic origin, these acts of intimidation foster feelings of terror, alienation, and persecution within entire communities. Victims suffer the emotional trauma associated with most crimes, as well as the realization that their race, religion, or ethnic origin was the motivating factor. The vulnerability of being singled out solely for what you are and the potential for such acts to be repeated can be emotionally devastating.

MARYLAND'S RESPONSE AND THE NEED FOR DATA COLLECTION

To attack a problem successfully, an accurate assessment of the problem is essential. Recognizing this fact, the Maryland General Assembly passed legislation in 1980 requiring local law enforcement agencies to report all RRE incidents, the first such legislation in the country.

The legislation requires RRE incidents to be reported via the Uniform Crime Report process to the Maryland State Police. The law states:

Article 88B, Section 9(b) - INFORMATION RELATING TO INCIDENTS DIRECTED AGAINST RACIAL OR ETHNIC GROUPS

(1) The Department shall collect and analyze information relating to incidents apparently directed against racial, religious, or ethnic groups.

(2) The Department shall request such information from all local law enforcement agencies and from the State Fire Marshal and include the information in its analyses.

Section 10(b) - MONTHLY REPORTS OF INFORMATION COMPILED PURSUANT TO Section 9(b). The Department shall make monthly reports to the State Human Relations Commission of the information compiled pursuant to Section 9(b) of this article.

Prior to this legislation, there was no reliable way to determine the nature and scope of the problem in Maryland. The Maryland State Human Relations

Commission and other public and private civil rights agencies were able only to collect statistics rudimentarily through media accounts and victim calls for assistance. Since RRE incidents were recorded by law enforcement agencies in a general manner (e.g., cross burnings reported as arson, synagogue defacement with swastikas as destruction of property), no accurate measure of the problem existed prior to 1981.

CONTINUING PROBLEMS

RRE incidents continue to be vastly underreported. Many reasons have been suggested for the failure to report incidents targeted at racial, religious, and ethnic minorities.

Victims' failure to report RRE incidents has been traced to desires to avoid the formal criminal justice process, lack of confidence in law enforcement, and fear of reprisal.

Many law enforcement officers lack an understanding of the complexities of RRE incidents and the training and experience to differentiate such offenses from other crimes. Policy and procedures to handle RRE incidents do not exist in all Maryland police agencies. They may be unknown to field officers even when present. Executive commitment to the value of accurate reporting is a necessity.

DATA COLLECTION: A CRUCIAL ELEMENT

A successful RRE reporting system will help identify prejudicially motivated activity, its victims, and its perpetrators.

- We must have reliable information. Who is involved? What happened? What does it look like? Where is it happening? How often? To how many victims?

- Data will define the problem...the target...the causes...and the course of action.

- Answers to these questions are important in assessing the needs of the victim and the community, as well as determining the appropriate

response of the police department. The contents of the report can be analyzed to determine the existence of trends as well as the involvement of organized hate groups. This data is extremely important in assessing the true nature of RRE incidents. It can lead to more apprehensions and prosecutions of perpetrators and increased reporting by victims, the community, and governmental agencies.

There are two (2) important benefits derived from thorough RRE reporting:

- **Strategic:** A view of the problem before it becomes a crisis. Long-term, non-reactive strategies can be developed from this base of information.

- **Tactical:** An identification of the scope/nature of the problem enables an agency to plan its response (personnel, equipment, tactics, etc.).

Improved clearance rates for RRE and related crimes are a direct result of properly used tactical information. Strategically, good data can lead to successful prevention program development. Additionally, a good reporting system sends a positive message to the victims of RRE hatred...the government cares.

NOT WITHOUT PROBLEMS

There can be problems, however, with any mandated RRE reporting system:

The existence of legislation requiring data collection of RRE statistics has proven less than sufficient in dealing with the problem. The development of a uniform and systematic reporting system in which all law enforcement agencies participate is essential. Problems stem from any of the following:

- **Lack of clearly stated purpose.** Why do we want the law? What do we expect of it?

- **Lack of sanctions** for non-compliance. The law must have teeth.

- **Lack of uniform criteria and definitions.** This leads to:
  - under reporting
  - over reporting
  - non reporting

- **Lack of sufficient funding** to provide for logistical support to operate the system. The legislative branch must adequately authorize and clearly appropriate funds if the intent of the legislation is to be realized.

- **Lack of specialized training.** Reporting RRE incidents, by nature, involves discretion and judgement. Law enforcement officials must be properly trained to recognize hate crimes for what they are.

REPORTING AS A FIRST STEP

RRE incidents create fear that doesn't fade...doesn't disappear. It lingers...spreads and permeates. Such acts are intended to intimidate. They foster terror. Police, the most visible arm of government, are the first called when an incident occurs - the first to respond. It is at that moment of response that our policy is initiated. Our agency's three pronged approach to RRE incidents involves:

- Thorough data collection reporting to identify the nature and extent of the problem.

- Empathic and sensitive handling of the victim through support measures, and

- Commitment to bring the full resources of the agency, the government and private sector to bear in the investigation and handling of RRE incidents.

The crucial first step, however, is reporting. A problem defined is a problem half solved. S. 702, S. 797 and S. 2000 provide a focus and direction at the federal level which can be emulated by state and local governments. Any reporting system is better than no reporting system. In spite of the limitations, this legislation is clearly preferable to continued ignorance. Accordingly, we support these bills.

Senator SIMON. Thank you very much, Colonel. Mr. Friedman, we're very pleased to have you here. Mr. Friedman has been the Vice Chair of the U.S. Commission on Civil Rights and because of the unfortunate death of Mr. Pendleton, is now serving as Chairman of the Commission.

Mr. FRIEDMAN. Acting Chairman.

Senator SIMON. Acting Chair. We're very pleased to have you here.

STATEMENT OF MURRAY FRIEDMAN

Mr. FRIEDMAN. Thank you, sir. Before I get into the formal testimony that we've prepared, I want to make one or two observations growing out of the discussion that has taken place so far.

Our support of the legislation that is before you now, reflects, I think, something that may not be known to many people today given the enormous controversies that have swirled around the Civil Rights Commission in recent years.

And that is that the Civil Rights Commission in endorsing this legislation, is embarked upon a variety of activities of a progressive, constructive character, dealing with civil rights in the United States today.

We will be holding a series of regional forums beginning in the fall, on changing perspectives on civil rights. And it may come as a surprise to you, Mr. Simon, to know that six of the eight commissioners recently sent a telegram to the President urging that he sign the Civil Rights Restoration Act.

And so I consider our testimony with regard to these measures here a continuation of the constructive, progressive role that the Civil Rights Commission has been undertaking in recent months.

Indeed, our testimony here reflects the pioneer role that we've been playing in attempting to dramatize the importance of gathering such information.

Many of the witnesses who have appeared before you today, including Colonel Supenski, the gentleman from the ADL, have appeared before us, and helped us to shape our position.

One further thought. As I listened to the testimony of the representative of the Justice Department, I think it's fair to say that more than implicit in our support of the body of legislation that is before you is a position different than that of the Justice Department.

That is to say, we have accepted conceptually, the idea that data collection with regard to racial crimes is necessary, that it is possible that this can be done as Colonel Supenski, here, has suggested to you. It would be our hope that both the Justice Department and all segments of the community work together on clearing up some of the ambiguities that clearly are involved in making such a determination. With that as background, I would like to move to my formal testimony.

Mr. Chairman, I've been asked to appear before you today to describe the activities of the U.S. Commission on Civil Rights regarding the collection of hate crime statistics.

As you know, the Commission has, on several occasions, called on Congress to enact legislation establishing a system to collect such

data, in order that we, as a nation, might ascertain the extent of such crimes and enlist the resources necessary to deal with this national problem.

In my testimony this morning, Mr. Chairman, I will offer a brief chronology of the Commissions' activities and efforts in this regard and any findings and recommendations which the Commission or any of it's State advisory committees have offered.

In April 1981, the Commission requested that several State advisory committees study the phenomenon of violence motivated by prejudice and report back their finds and recommendations.

In September 1981, the Connecticut State Advisory Committee held a public factfinding meeting, in October 1982, report offered the following recommendations.

Specific numbers of incidents of racially motivated violence are difficult to obtain because crime statistics do not indicate motivation.

The uniform crime reports of the FBI and the National Crime Survey should, therefore, explore the possibility of identifying crimes which are racially or religiously motivated.

Other State advisory committee reports issued about the same time raised similar concerns, perceptions of hate groups activity in Georgia, violence and bigotry in West Virginia, hate group in Michigan—a sham or a shame and bigotry and violence in New Jersey.

A January 1983, statement by the Commission relied heavily on these reports and information gathered from several of the Commission's 51 one State advisory committees.

In that statement the Commission found that precise measures of the extent of racial and religious violence and intimidation do not exist primarily because Federal, State, and local law enforcement agencies have not devised methods for reporting and compiling statistics on crimes that involve clear signs of racial and religious motivation.

Such data are needed to measure trends, develop preventative programs, allocate resources and adjust public policy. Based on that conclusion, the Commission suggested that Federal and State authorities should develop workable reporting systems that will produce an accurate and comprehensive measurement of the extent of criminal activity that is clearly based on racial and/or religious motivations.

In November 1982, the Idaho State Advisory Committee voted to undertake a similar study. In a report submitted to the Commission in October 1985, the committee found that there is no standardized system for State and local law enforcement agency reporting of incidents of racial and religious harassment and violence.

There's no central monitoring agency to collect, compile and prepare periodic reports of racial and religious harassment and violence.

It also found that the lack of a comprehensive and uniform crime reporting system, at the Federal, State, or local government levels, that specifically includes and identifies crimes that are racially or religiously motivated, hampers law enforcement and public policy development.

As a result of its findings, it offered this recommendation. The Idaho Department of Law Enforcement should develop a standardized method of reporting racially and religiously motivated crimes to be utilized by State and local law enforcement agencies.

In the interest of time I'll skip——

Senator SIMON. If you can summarize, Mr. Friedman.

Mr. FRIEDMAN. Let me simply say that by virtue of my having usurped a certain amount of the 5 minutes allotted to me with my earlier comments, that the remainder of our statement is clearly indicated in materials that have been provided to you and, therefore, in the interests of time, I think I will hold.

[The prepared statement of Mr. Murray Friedman follows:]

UNITED STATES
COMMISSION ON
CIVIL RIGHTS

1121 Vermont Avenue, N.W.
Washington, D.C. 20425

TESTIMONY OF ACTING CHAIRMAN MURRAY FRIEDMAN

U.S. COMMISSION ON CIVIL RIGHTS

Before the United States Senate Committee on the Judiciary

Subcommittee on the Constitution

regarding Hate Crimes Statistics Legislation

June 21, 1988

Mr. Chairman, I have been asked to appear before you today and to describe the activities of the United States Commission on Civil Rights regarding the collection of hate crime statistics. As you know, the Commission has on several occasions called upon Congress to enact legislation establishing a system to collect such data, in order that we as a nation might ascertain the extent of such crimes and enlist the resources necessary to deal with this national problem. In my testimony this morning Mr. Chairman, I will offer a brief chronology of the Commission's activities and efforts in this regard, and any findings and recommendations which the Commission or any of its State Advisory Committees have offered.

In April, 1981, the Commission requested that several State Advisory Committees study the phenomenon of violence motivated by prejudice and report back their findings and recommendations. In September, 1981, the Connecticut SAC held a public fact-finding meeting, and in an October, 1982 report, offered the following recommendation:

> Specific numbers of incidents of racially motivated violence are difficult to obtain because crime statistics do not indicate motivation. The Uniform Crime Reports of the FBI and the National Crime Survey should therefore explore the possibility of identifying crimes which are racially or religiously motivated.

Other State Advisory Committee reports issued about the same time raised similar concerns: Perceptions of Hate Groups Activity in Georgia; Violence and Bigotry in West Virginia; Hate Groups in Michigan: A Sham or a Shame?; and Bigotry and Violence in New Jersey.

A January, 1983 statement by the Commission relied heavily on these reports and information gathered from several other of the Commission's 51 State Advisory Committees. In that

statement, the Commission found that:

> Precise measures of the extent of racial and religious violence and intimidation do not exist primarily because Federal, State, and local law enforcement agencies have not devised methods for reporting and compiling statistics on crimes that involved clear signs of racial and religious motivation. Such data are needed to measure trends, develop preventive programs, allocate resources, and adjust public policy.

Based on that conclusion, the Commission suggested that:

> Federal and State authorities should develop workable reporting systems that will produce an accurate and comprehensive measurement of the extent of criminal activity that is clearly based on racial and/or religious motivations.

In November, 1982, the Idaho State Advisory Committee voted to undertake a similar study. In a report transmitted to the Commission in October, 1985, the Committee found that:

1. There is no standardized system for State and local law enforcement agency reporting of incidents of racial and religious harassment and violence.
2. There is no central monitoring agency to collect, compile, and prepare periodic reports of racial and religious harassment and violence.

It also found that:

The lack of a comprehensive and uniform crime reporting system at the Federal, State, or local government levels that specifically includes and identifies crimes that are racially or religiously motivated hampers law enforcement and public policy development

and as a result of its findings, offered this recommendation:

The Idaho Department of Law Enforcement should develop a standardized method of reporting racially and religiously motivated crimes to be utilized by State and local law enforcement agencies, whether or not there is a change in the Federal uniform crime reporting system. The Department should consult with the Federal Bureau of Investigation

regarding this effort, and to the extent the FBI considers modifying its own data collection system to include comprehensive data collection regarding such crimes, coordinate Federal and State initiatives. The Department may also wish to consult with Maryland State law enforcement officials who have implemented such a system in that State.

In 1986, the Commission issued a report entitled, Recent Activities Against Citizens and Residents of Asian Descent which stated:

> In the absence of systematic nationwide data, there is currently no way to determine accurately the level of activity against persons of Asian descent, or whether the number of incidents has increased, decreased, or stayed the same in recent years. The paucity of data leads to the conclusion that there needs to be a mechanism to gather statistics on a national basis, perhaps through the Bureau of Justice Statistics of the U.S. Department of Justice. Without such data, it is impossible to draw firm conclusions about the nature and extent of anti-Asian activity.

In December, 1986, I joined with the late Chairman Clarence Pendleton in calling on Federal, State, and local authorities to begin a nationwide effort to gather statistics on acts of racial violence. The Commission, through its State Advisory Committees, began a survey of data collection mechanisms in place throughout the country. From the more than 1,000 pages of information obtained during that survey, Commission staff prepared a memorandum which stated: "few states are keeping track in a systematic way of incidents of racially, religiously, and ethnically motivated violence." The Commission survey found that, at the time, only three states (Maryland, Pennsylvania and North Carolina) and a handful of large cities were collecting data on hate crimes.

Mr. Chairman, I submit that memorandum and the accompanying table to you as Appendix A.

In February, 1987 the Commission held a formal briefing on the issue of data collection. The general consensus among participants at that briefing was that data-collection efforts have produced tangible results in the states where they have been in effect. However, several panelists warned of problems in defining hate crimes, and that comparisons of data among different jurisdictions would be extremely difficult since various definitions might be used. One panelist, Col. Leonard

Supensiki of the Baltimore County Policy Department criticized the lack of a definition in legislation which passed the House of Representatives during the 99th Congress, and which is very similar to the legislation before you today.

In May, 1987 the Commission passed, without objection, a resolution which endorsed "Federal Legislation requiring the collection of hate crime data by the U.S. Department of Justice." However, in that resolution the Commission emphasized:

> that such legislation should mandate clear, workable criteria for police departments to follow in their determination of what constitutes a bigotry-related crime, or such criteria should be specified in implementing regulations."

Mr. Chairman, I submit that resolution to you as Appendix B.

Since that resolution, several more State Advisory Committees have submitted or are about to submit reports on the subject. I believe, Mr. Chairman, you will find the report entitled Reporting on Bias-Related Incidents in Pennsylvania particularly interesting because it addresses problems of

motivation and of collection procedures with which your committee has been grappling. The report was approved by the Commission during its April, 1988 meeting. Mr. Chairman, that report is currently at the printers, but I will be happy to forward a copy to your staff as soon as one is available.

During its February, 1988 meeting, the Commission again considered a resolution urging Congress to enact data-collecting legislation. However, several Commissioners objected to the term "sexual orientation" which was then included in H.R. 3193, and is included in S. 2000. The Commission finally deleted all references to specific categories of individuals, and approved the resolution which I submit to you as Appendix C.

Mr. Chairman, I believe this last point is worthy of consideration. During a briefing held by the Massachusetts Advisory Committee in March, 1988, law enforcement officials illustrated how the Massachusetts Civil Rights Act provided protection for all residents of the state, and not just for designated classes or groups of people, because it did not make reference to specific groups. The Commission itself has not adopted a position on this issue, but I believe it warrants attention by your Committee. The transcript of that briefing is available, and I can have a copy sent to your staff if you wish.

Mr. Chairman, as you can see, the Commission on Civil Rights has been and continues to be deeply concerned about crimes motivated by bigotry. Several times we have called on Congress to enact legislation requiring the establishment of a national system to collect data on such crimes. The information we have received indicates that such efforts help to eradicate prejudicial crimes in our society, and they help to insure that all citizens, regardless of race, creed or ethnic origin, are treated equally as individuals. Mr. Chairman, thank you, and I now welcome any questions which you or other members of the Committee might have.

APPENDIX A

ADD TWO
Collecting Data on
Racial Violence
4/16/87

UNITED STATES COMMISSION ON CIVIL RIGHTS
WASHINGTON D.C. 20425

STAFF DIRECTOR

April 16, 1987

MEMORANDUM TO THE COMMISSIONERS

FROM: Susan J. Prado, Acting Staff Director

SUBJECT: Survey of Data Collection Efforts Concerning Racial, Religious, and Ethnic Violence

The staff has prepared a preliminary summary of the data collected in the Commission's survey of racially, religiously, and ethnically motivated violence and harassment.

The chart below lists the states that are keeping data on the number of such incidents. It also includes additional information received from our State Advisory Committees concerning some local jurisdictions that keep statistics on bias related crimes and state laws that specifically address these offenses.

As the table indicates, few states are keeping track, in a systematic way, of incidents of racially, religiously, and ethnically motivated violence. Also, aside from the nation's largest cities few local jurisdictions seem to be tracking this problem.

The staff is still working on a summary of the more than 1,000 pages of related material gathered as a result of the survey. Although the absence of statistics makes it impossible to determine with certainty whether the level of such violence is rising or falling nationwide, this information should be helpful in giving us a broader look at the problem of bigotry-related violence in the country today.

ADD THREE
Collecting Data on Racial Violence
4/16/84

STATE	STATE COLLECTS DATA ON A STATEWIDE BASIS	INFORMATION SHOWS THAT SOME JURISDICTIONS COLLECT DATA	STATE HAS A SPECIAL LAW FOR HATE CRIMES
Alaska	NO		
Ala.	NO		*
Ariz.	NO		*
Ark.	NO		
Calif.	NO	YES/1	YES/2
Colo.	NO		*
Conn.	NO		*
Del.	NO		
D.C.	NO		
Fla.	NO		*
Ga.	NO/3		YES/4
Hawaii	NO		
Idaho	NO		YES/5
Ill.	YES/6	YES/7	YES/8
Ind.	NO		*
Iowa	NO/9		
Kan.	NO		*
Ky.	NO		
La.	NO		*
Maine	NO		*
Md.	YES/10		YES
Mass.	NO	YES/11	YES/12
Mich.	NO		
Minn.	NO		
Miss.	NO		*
Mo.	NO		
Mont.	NO		
Neb.	NO		
Nev.	NO		
N.H.	NO		
N.J.	NO/13		YES/14
N.M.	NO		*
N.Y.	NO	YES/15	YES/16
N.C.	YES/17		
N.D.	NO		
Ohio	NO		
Okla.	NO		*
Ore.	NO		YES/18
Pa.	YES/19		YES/20
R.I.	NO		YES/21

S.C.	NO	
S.D.	NO	
Tenn.	NO	*/22
Texas	NO	*
Utah	NO	
Vt.	NO	
Va.	NO	*
Wash.	NO	YES/23
W.Va.	NO	
Wis.	NO	
Wyo.	NO	

FOOTNOTES

* = the state has a law against religious vandalism.

1. California has conducted a one year program to collect statistics on racial, religious, and ethnic violence. The Los Angeles County Commission on Human Relations has kept data since 1980.

2. California has had an anti-terrorism law since 1982.

3. internal police reports are kept on KKK activity.

4. Georgia has had an anti-terrorism act since 1983.

5. the Idaho "Malicious Harassment Act" was passed in 1983.

6. will begin collection in January 1988.

7. Chicago; Chicago Police Dept. and Chicago Commission on Human Relations.

8. Illinois has had a law against ethnic intimidation since 1983.

9. Iowa Civil Rights Commission may consider collecting such data.

10. Collection mandated by 1981 law.

11. Boston Police Dept., Community Disorders Unit.

12. Massachusetts has had a law against ethnic intimidation since 1983.

13. the New Jersey Anti-Defamation League (ADL) keeps records on acts of anti-semitism; the New Jersey NAACP has initiated an audit of racial incidents.

ADD FIVE-- Racial Violence Data 4/16/87

14. New Jersey has had a law against ethnic terrorism since 1981.

15. New York City; NYC Police Dept, Bias Incidents Investigation Unit. Nassau and Suffolk County police also keep data.

16. the state of New York has had a law against racially, religiously, or ethnically motivated harassment or vandalism since 1982. The state Legislature is considering a bill to collect statistics on a statewide basis.

17. the North Carolina State Bureau of Investigation (SBI) has kept internal records on incidents of racial or religious violence used mainly to track KKK activity. (figures available)

18. Oregon has had a law against racial, religious, or ethnic intimidation since 1981.

19. as required by a new state law that took effect January 1, 1987.

20. Pennsylvania has had a law against racial, religious or ethnic violence since 1982.

21. Rhode Island has had an anti-intimidation law since 1981.

22. Tennessee has a law against cross-burnings.

23. Wyoming has had a law against malicious harassment since 1981.

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APPENDIX A

RESOLUTION

WHEREAS THE COMMISSION HAS PREVIOUSLY CALLED FOR THE NATIONWIDE COLLECTION OF DATA ON CRIMES MOTIVATED BY RACIAL, RELIGIOUS, OR ETHNIC BIAS, BOTH IN 1983 IN ITS REPORT ON "RACIAL AND RELIGIOUS BIGOTRY IN AMERICA," AND AGAIN IN 1986 IN ITS REPORT ON "RECENT ACTIVITIES AGAINST CITIZENS AND RESIDENTS OF ASIAN DESCENT";

WHEREAS THE COMMISSION HAS DETERMINED THROUGH A NATIONWIDE SURVEY BY THE COMMISSION'S STATE ADVISORY COMMITTEES THAT ONLY THREE STATES AND A FEW LOCAL JURISDICTIONS ARE CURRENTLY COLLECTING DATA ON SUCH CRIMES; AND

WHEREAS THE UNAVAILABILITY OF SUCH DATA MAKES IMPOSSIBLE THE TASK OF DETERMINING WHETHER BIGOTRY-RELATED VIOLENCE IS ON THE RISE;

THEREFORE, BE IT RESOLVED:

THAT THE COMMISSION ENDORSES FEDERAL LEGISLATION REQUIRING THE COLLECTION OF HATE CRIME DATA BY THE U.S. DEPARTMENT OF JUSTICE, AND, FURTHERMORE,

THAT THE COMMISSION WISHES TO EMPHASIZE THAT SUCH LEGISLATION, IF ENACTED, SHOULD MANDATE CLEAR, WORKABLE CRITERIA FOR POLICE DEPARTMENTS TO FOLLOW IN THEIR DETERMINATION OF WHAT CONSTITUTES A BIGOTRY-RELATED CRIME, OR SUCH CRITERIA SHOULD BE SPECIFIED IN IMPLEMENTING REGULATIONS.

THE UNITED STATES
COMMISSION ON
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Washington, D.C. 20425
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NEWS RELEASE

APPENDIX C
For Release: IMMEDIATELY

Contact: JOHN C. EASTMAN
or
BARBARA J. BROOKS

RIGHTS COMMISSION ISSUES HATE CRIMES RESOLUTION

WASHINGTON, D.C.---The U.S. Commission on Civil Rights today (2/12/88) issued a resolution calling on Congress to enact legislation requiring the Attorney General to collect data about hate crimes.

The original version of the resolution, as introduced by Vice Chairman Murray Friedman, contained language concerning data collection based on sexual orientation. Commissioner William B. Allen introduced an amendment which deleted the sexual orientation language and the resolution was unanimously approved by a vote of 6 to 0, with two Commissioners absent. The resolution reads as follows:

Hate Crimes Resolution

WHEREAS in 1987 the United States Commission on Civil Rights instructed its State Advisory Committees to determine the extent to which data on crimes motivated by racial, religious, or ethnic prejudice is gathered at the State and local level; and

WHEREAS the Commission's State Advisory Committees reported that only four States and four localities gathered such data; and

WHEREAS the collection of this data is essential to determining the level of bigotry-related crime in the United States, whether, as some claim, such crime is on the rise;

THEREFORE, BE IT RESOLVED that the United States Commission on Civil Rights calls upon the Congress of the United States to enact legislation requiring that the Attorney General collect data about hate crimes and publish such data on a yearly basis.

-30-

2/12/88

Senator SIMON. Thank you very, very much. You read as I was going through your testimony a statement from your Idaho State Advisory Committee. I think it's as good a summation of this whole thing as anything.

The lack of a comprehensive and uniform crime reporting system at the Federal, State, or local government level, specifically including identifying crimes that are racially or religiously motivated, hampers law enforcement and public policy development. I think that is it.

May I ask you, Mr. Friedman, did the Justice Department in reaching their decision, consult with the Civil Rights Commission at all?

Mr. FRIEDMAN. I have no knowledge one way or the other on that subject.

Senator SIMON. And let me commend you. I assume you were one of the six on the Commission that sent the telegram to the President urging that he sign the Civil Rights Restoration Act.

Mr. FRIEDMAN. I organized it.

Senator SIMON. You organized it. All right. Well I'm glad you organized it, and I commend you for it.

Colonel, in your written testimony, you have this statement: "a problem defined is a problem half solved." I really believe that is correct. You've been here. You've heard the representative of the Justice Department say this—there are problems. It will be very costly and so forth.

Have you found, number one, that this is a costly addition to information gathering for the Baltimore County Police. Are there major problems in connection with it?

Colonel SUPENSKI. We found that there are attending costs. I think it was alluded to earlier in one of the previous testimonies that there is a training cost involved. But that's borne at a local level.

You have to train your police officers, what is and what isn't a reportable RRE incident, then the criteria for verification, but that's a training cost that's incorporated. That cost is incorporated in many other training programs and so it's more indirect than it's direct.

The only actual cost that we incurred in this entire program and we've been into it now since 1980, is the cost for a statistical analyst and, at that time, the entry level was $16,000. Any other cost was indirect, was in salaries, in putting this together and developing criteria.

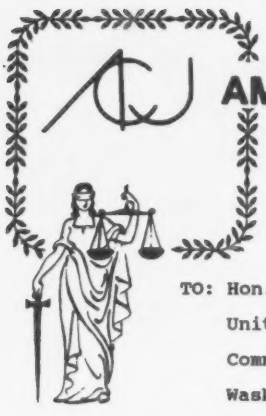
Senator SIMON. And, if I can shift your role to that of the U.S. Senator, would you vote for legislation that is pending before us?

Colonel SUPENSKI. Yes, sir. Unequivocally.

Senator SIMON. We thank you both very, very much for your testimony. The hearing stands adjourned.

[Whereupon, at 12:15 p.m., the subcommittee was adjourned.]

APPENDIX



AMERICAN CITIZENS FOR JUSTICE

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Jun 16, 1988

TO: Hon. Paul Simon
United States Senate
Committee on the Judiciary
Washington, D.C. 20510-6275

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Executive Director
David Fukuzawa

FROM: David Fukuzawa, Executive Director
American Citizens for Justice
15777 W. Ten Mile Road
Southfield, MI 48075

SUBJECT: S. 702

You have asked me for information regarding "hate crimes," particularly as they have affected and affect the Asian American community here in the Midwest. This is an issue of great concern to The American Citizens for Justice, since this organization was formed in response to one of the most heinous examples of a "hate crime" in recent Michigan, perhaps national, history. Vincent Chin was a 27 year old Chinese American, the adopted and only child of immigrants from China, who was

bludgeoned to death in 1982 by a baseball bat wielding autoworker and his stepson.

Perhaps if his death was the outcome of just another barroom brawl--perhaps if his killing had happened in any other urban area than a recession ravaged metro Detroit--perhaps if his killers' judgment had been too blurred by the beer-- then none of the outrage in the community which followed would have happened. But witnesses have testified that Ronald Ebens, a Chrysler Corporation employee, accused Vincent with the words, "It's because of you m-- f-- that we are out of work." Then, after both Ebens and his stepson, and Vincent and his friends were ejected from the bar for fighting, there ensued a 25 minute chasing and stalking period, during which Ebens and Nitz even paid a third party to help them find the "Chinaman."

But the Chin case is closed. The civil rights conviction of Ebens was overturned last year in a Cincinnati Federal courtroom. What has happened since then? And why do we, ACJ, still feel the need to monitor "hate crimes?" On January 1 1985, while Ebens was appealing his conviction, a Vietnamese

refugee, Kiet Tien, in Grand Ledge, Michigan had his house broken into by four white men. This had followed an ugly confrontation earlier on Christmas Day, when some white men racially harassed Tien and his brother at a gas station. This was not the first time Tien had experienced racial harassment. This was only the latest in a string of incidents going back to 1981.

In the last 9 months, we have received reports of attacks on Asian graduate students in the Wayne State University area. Wayne State is located in the inner city of Detroit, and students there experience their share of robberies and muggings. But at least 4 Asian students have been seriously attacked and beaten for no apparent reason except their race.

We have heard about other incidents that would not find their way into police records, but which are frightening nevertheless to Asians. A Chinese man in one of Detroit's suburbs was driving home one night and became aware of another car following him. No sooner did the Chinese man step out of his car than the driver of the other car jumped out of his car and screamed, "You mother f---ing Japs! Why

don't you learn how to drive!"

There is a small midwestern college in Ohio well known for the open and liberal attitudes of its students and faculty. Recently it hosted one of the largest conferences of Asian American students in the country. After that highly successful conference, someone discovered this freshly etched grafitti in a bathroom: "Kill all Asians!"

We are especially concerned about our college campuses, since Asian Americans represent the largest minority group at many universities. While racism on campus may be an issue outside of the purview of this committee and of this bill, the kinds of racially motivated, student-against-student incidents which have occurred against Blacks, Hispanics and Asians, reflect a growing racial animosity which only reaches an ugly head in actual violence or crime. We know of several incidents in the past few years at the University of Michigan at Ann Arbor involving slurs against Asians. Recently, we have heard that several others have been reported to campus authorities in the past year.

You will, and perhaps have already heard of racially motivated incidents on the West and East coasts. Los Angeles, in particular, has been able to track the growing numbers of prejudice based crimes, of which Asians are victimized at a 25% rate. While we suspect that in Michigan there are other prejudice based crimes against Asians, we have no police records to reveal these, <u>even if Asians do report them</u> (and we strongly suspect they do not report even "typical" crimes). The Michigan State Police keeps records of victimization collected from all the police departments in the state, but there is no way of telling whether an act of vandalism was committed by a prankster or by the KKK.

Perhaps too you will hear or have heard from the Arabic and Chaldean communities. And if you have not, you should. The Detroit area is home to one of the largest concentrations of both these groups. With the tensions the U.S. has experienced with Middle Eastern countries in the past few years, these groups have been singled out by local hatemongers and racists. Just this last week an Arab family's home was vandalized with racist

remarks scrawled on the walls. We in the Asian community note the parallels--U.S.tension or conflict with a particular foreign country inevitably seems to pustulate in racial or prejudicial incidents against a racial or ethnic group living here in the United States. As the son of parents who were both interned during World War II, just for being born to Japanese parents, I can only too readily agree with this observation. As the U.S. auto market gets even tighter, and with trade tensions with the Far East still high, we Asian Americans wonder nervously about the affects on us.

I urge the Senate to follow the lead of the House in passing this Bill to provide for the collection of data about prejudice based crimes. Information alone, of course, will not halt such crime. But it will provide government leaders, policy makers, and civil rights organizations, such as ours, with the necessary data to develop strategies to overcome these incidents of hate.

American Psychological Association

Advancing psychology as a science, a profession, and as a means of promoting human welfare

TESTIMONY OF

THE AMERICAN PSYCHOLOGICAL ASSOCIATION

Offered by Leonard D. Goodstein, Ph.D.
Executive Vice President & Chief Executive Officer

before the

UNITED STATES SENATE

COMMITTEE ON THE JUDICIARY
SUBCOMMITTEE ON THE CONSTITUTION

on the subject of

HATE CRIMES STATISTICS ACTS

June 21, 1988

The Honorable Paul Simon, Chair

1200 Seventeenth Street, N.W.
Washington, D.C. 20036
(202) 955-7600

The American Psychological Association (APA), on behalf of our 90,000 members, is pleased to present this statement as part of the record of the Subcommittee's hearings on the "Hate Crimes Statistics Act." We commend Chairman Simon and the members of the Subcommittee for their commitment to addressing the issue of bias-motivated crimes in this country.

APA is concerned by reports of increased crime and violence motivated by racial, ethnic, religious, and homophobic prejudice. Recent examples include the killing of a Black teenager in Howard Beach, waves of crime against Asian and Arab immigrants and their businesses, increased attacks against lesbian women and gay men, and hundreds of documented anti-Semitic incidents. Hate crimes in this country are a serious national problem, one that demands federal attention. There is virtually no area of our country that is immune to bias incidents.

APA is committed to the rights of all individuals to be free from crime and violence based on race, ethnicity, religion, and sexual orientation, and is committed to the proposition that no one in our country has the right to brutalize another human being or group of human beings, to harass or assault them, or to cause them physical or psychological injury. As responsible citizens, it is our duty to do what we can to prevent hate crimes and to work to minimize their effects.

Hate Violence Has A Detrimental Impact On The Individual And The Community

Bias-motivated crimes have long-lasting effects on the individual victim and the community of which they are a part. Such crimes are directed not only at the individual victim, but to their communities as well. Hate violence is fundamentally anti-democratic and discourages the free exercise of civil and constitutional rights.

Research on the impact of prejudice and violence upon the individual has provided us with a greater understanding of the reaction of hate crime victims. How the individual responds may be due to the severity of attack, the level of humiliation experienced, and, to some extent, the individual's psychological strength prior to the trauma, as well as the social and professional supports available to help the individual cope with the trauma. There is consistent agreement among researchers that the immediate reaction to victimization is often one of personal disorganization, numbness, shock, disbelief, and feelings of loneliness, depression, vulnerability, and helplessness, often accompanied by sleep disturbances, nightmares, and fear and distrust of strangers. Within hours or days, these reactions may change to swings of feelings, from anger and a wish for revenge to fear and vulnerability, from a feeling of competence to that of incompetence and an inability to work productively. And while most victims are ultimately able to resume their normal lives, many others continue to experience flashbacks and feelings of depression, anger, loss of self-esteem, and a distrust of others that may persist for years.

Research that has been conducted on the impact of crime and violence on the larger community, tends to report that there is an increase in community tensions, a higher propensity for continued violence, and that groups which are the focus of violence become distrustful, hostile, and withdrawn from

the larger community. The effect of racial, ethnic, religious, and homophobic violence is one of limiting community participation and decreasing personal interaction. Such violence heightens suspicion and distrust and reduces productive interaction between the members of the community. There are numerous examples of persistent intergroup violence that has had destruction consequences for the individuals involved, as well as the community.

APA Supports S. 2000

APA has a long and sustained tradition of opposition to discriminatory practices that violate human rights, civil rights, and civil liberties. As social scientists who study the impact of violence on crime victims and as health professionals who deliver mental health services to ameliorate the effects of such violence on the individual, we support the collection of data to help understand the phenomenon of bias crimes. In February of this year APA's governance body, the Council of Representatives, passed a resolution on hate crimes that is pertinent to the issues we are raising before this Subcommittee today. The concluding paragraph of the resolution is as follows:

> Be it Resolved that the American Psychological Association supports governments' collection and publication of statistics on hate crimes and bias-related violence, provision of services for victims and their loved ones, and interventions to reduce and eliminate such crimes and violence, and policies that perpetuate them.

It is within the context of the Association's commitment to upholding the civil rights and civil liberties of all of our citizens that we submit our remarks on hate crimes legislation.

APA has reviewed each of the three hate crimes bills being considered by this Subcommittee: S. 702, introduced by Chairman Simon, S. 797, introduced by Senator Metzenbaum, and S. 2000, introduced by Senator Cranston. APA commends these Senators for their leadership in addressing the issue of hate crimes. From our perspective, the most comprehensive of the three bills is S. 2000.

APA supports S. 2000 because it includes the major categories of individuals most likely to be the targets of hate crime activity. S. 2000 directs the Attorney General to compile and publish annual data on the incidence of criminal acts committed against persons or property based on race, religion, affectional or sexual orientation, and ethnicity. APA strongly supports the inclusion of the category of "affectional or sexual orientation" in the proposed legislation.

APA supports S. 2000 because it includes the major categories of crime most likely to be committed against the persons and groups contained in the legislation. S. 2000 includes the following categories of crime: homicide, assault, robbery, burglary, theft, arson, vandalism, trespass, and threat. Vandalism, trespass, and threat are not reported nationally or included in the FBI's Uniform Crime Reporting program. From reports that APA has received regarding the commission of hate crimes, these offenses are frequently the bias crimes committed against Jewish synagogues and cemeteries, against racial and ethnic minorities, and against gay and

lesbians persons. In order to obtain an accurate national assessment of the incidence of hate crimes, it is imperative that the major categories of the crimes committed be included in the legislation.

APA supports S. 2000 because it includes a provision to protect the identity of those reporting hate crime activity. S. 2000 states that the data acquired under the legislation shall be used only for research or statistical purposes and may not contain any information that may reveal the identity of an individual victim of a crime. APA believes that this confidentiality provision, by offering protection from public disclosure, will encourage individuals to report incidences of hate crimes. This, in turn, will help to provide a more accurate assessment of the incidence of hate crimes.

It is Important That Sexual Orientation Be Included in The Legislation

The high incidence of bias motivated violence against persons due to their race, ethnicity, or religion has been well documented, and the need to include these categories in the legislation has been widely accepted. The need to include "affectional and sexual orientation" as a category within the legislation has not been as well understood. APA believes that it is imperative that the category affectional and sexual orientation be included in the legislation for the data to accurately reflect the incidence of hate crimes in this country. As there has been some confusion regarding the term "affectional and sexual orientation," for the purposes of this testimony the phrase is defined to mean adult heterosexuality, bisexuality, and homesexuality.

Violence against lesbian women and gay men is common across the United States. There is evidence that lesbians and gays are the targets of hate crimes organized by hate groups. Statewide surveys in New Jersey, New York, Maine, and Wisconsin, and community surveys in Atlanta, Dallas, Denver, Los Angeles, Philadelphia, St. Louis, and other cities, all indicate that a significant minority of lesbian and gay respondents have been punched, kicked, or beaten, or in other ways threatened or harassed, because of their sexual orientation; the proportions range from 15% to 25%. It also appears that most attacks are perpetrated by young males in groups. The assailants usually do not know their victims personally; they are often armed, very frequently with knives. Attacks against gay persons often are characterized by an intense rage on the part of the attackers; thus these attacks tend to be more violent than other physical assaults. The frequency of attacks appear to have increased during the last few years, apparently fueled by public reaction to Acquired Immune Deficiency Syndrome (AIDS). AIDS may thus be providing a convenient excuse for violent expressions of hostility against gay people.

In addition to the consequences of assault mentioned earlier in this testimony, if the attack happens to be reported in the local news media, the victim's sexual orientation may become public knowledge and she or he may experience subsequent harassment or discrimination from a variety of sources. Anticipating negative consequences, many lesbian and gay individuals never report their assaults to law enforcement officials. Community violence surveys suggest that as many as 80% of attacks go unreported, and, thus, do not become part of crime statistics.

Violence against gay people is a serious national problem, sufficiently widespread to warrant close scrutiny and government intervention. But until more extensive and systematic empirical research has been conducted with national samples, we will be in the frustrating position of not knowing the full scope of the problem nor how to best solve it. Including the category "affectational or sexual orientation" in legislation which provides for the collection of statistics on the incidence of hate crimes is an important step towards obtaining the information needed to better address this national problem.

Hate Crime Statistics Can Be Accurately Collected

The question has been asked, "Is it possible to collect accurate and reliable hate crime statistics?" As social scientists, APA believes that it is possible to collect information on the incidence of hate crimes, and that such information is beneficial to law enforcement agencies and to those interested in developing programs to reduce hate violence. Several states currently require the collection of bias crimes data, including California, Connecticut, Maryland, New Jersey, and Pennsylvania. In April 1988, the State of Minnesota passed hate crimes legislation containing provisions very similar to S. 2000. In addition, several local jurisdictions have made hate crimes a priority for assessment and action, including the Baltimore County Police Department, Boston Police Department, New York City Police Department, and the San Francisco Police Department. These states and jurisdictions have developed procedures to investigate, assess, review, record, and report incidences of bias crimes. Their experience could be valuable to the Department of Justice in developing a nationwide reporting mechanism.

APA believes that law enforcement officers will not be overburdened by additional investigations to determine whether an offense is motivated by "manifest prejudice," as required by the legislation. Crime statistics document that the majority of murders, nonnegligent manslaughter, aggravated assaults, burglaries, thefts, and robberies are offenses in which the perpetrator and the victim are both members of the same racial or ethnic group and/or are related by kinship. This bill would not, therefore, require law enforcement officials to expand the investigation of every criminal case in an effort to discover the motive of the perpetrator. Only those cases where there was one or more pieces of "patent evidence," indicating manifest prejudice, would further investigation be necessary. The absence of any apparent motive or lack of provocation, while not itself patent evidence, should alert law enforcement officials to possible hate crimes. We offer the following criteria as examples of patent evidence:

1. Visible displays associated with the commission of an offense (such as cross-burnings, swastikas scrawled on a synagogue, or hate mail);

2. Physical consequences resulting from the commission of an offense (such as a vandalized or desecrated cemetery or other property);

3. Victim or witness statements describing the perpetrator (such as the wearing of a hood or other clothing indicating membership in a group prone to bias violence);

4. Victim or witness testimony about the statements and actions of the perpetrator during the commission of the crime (such as the uttering of racial or ethnic slurs, assault without robbery, or telephone threats);

5. Evidence of mutilation (such as a large number of stab wounds or a severe beating);

6. Previous history of similar incidents in the same area and/or committed in a similar pattern to prior verified hate crime incidents (such as a series of assaults against gay persons or incidents of racial conflict; or similarity to events reported in recent news coverage of hate crimes);

7. Victim is the only, or one of a few, ethnic person(s) in the area, or recently to move into the area;

8. Victim is assaulted during a civil rights march or other legal activity on behalf of a racial, ethnic, religious, or sexual orientation cause.

Recommendations On The Collection Of Hate Crimes Statistics

The proposed legislation does not specify the method by which the Department of Justice shall collect hate crime statistics, leaving this to the discretion of the Attorney General. APA, however, has developed a set of objectives that any collection method should meet in order to effectively serve the purposes for which the legislation is intended. These objectives include:

1. The data should be comprehensive -- a national census of reported hate crimes, rather than only a sample of jurisdictions and localities;

2. Official statistics on hate crimes should be collected -- data should be collected and reported under the auspices of the Department of Justice, rather than a subsidiary or informal collection system;

3. Data collection should be a uniform and systematic reporting by all local, state, and federal law enforcement agencies to the Department of Justice;

4. The statistics should be timely -- reported by law enforcement agencies on a regular schedule to the Department of Justice;

5. The statistics should be meaningful -- including data elements which identify the nature and circumstances of the crime;

6. The data should be reliable -- with an accuracy acceptable for statistical use;

7. The data should be valid -- with an acceptable rate of systematic error;

8. The data should be reported in an informative manner -- statistics should be reported by the Department of Justice in a manner which allows analysis of hate crimes by state and locality, crime classification, and victim group;

9. The data should be accessible to outside researchers -- the data files should be made available to legitimate scientists for research purposes;

10. The victims identification should be protected -- the data should not include information which would reveal the identity of the victim.

APA recommends that in order to assure high-quality information from the local police jurisdictions, the Department of Justice follow the process it has established regarding reporting data through the Uniform Crime Reporting program, such as the convening of a work group comprised of states and jurisdictions which currently collect bias crimes data, statisticians, and other interested parties, to develop an operational definition of bias crimes, data elements for crime determination, and the design of incident reports to allow easy data reporting, collection, and tabulation.

Data Can Help Prevent Hate Crimes

The question has been asked, "What would be the benefit of having improved data on hate crimes?" The data base which will be established on hate crimes during the five-year period designated in S. 2000 will be useful in several respects. First, collecting such information will send the message that the federal government and the Department of Justice are taking the commission of hate crimes seriously. The knowledge that the federal government is placing emphasis on hate crimes may serve to encourage state and local jurisdictions to give additional attention to these categories of crime. The legislation will also encourage those victimized to report incidences of hate crimes, thus providing a more accurate determination of incidence and prevalence. Second, the data can assist in the development of more targeted and, therefore, more efficient law enforcement efforts regarding hate crimes. Third, the knowledge of the incidence and geographic locality of hate crimes can help communities acknowledge and address the problem through community education efforts, prevention activities through community relations programs, and victim assistance programs to ameliorate the personal impact of victimization. Finally, with accurate and comprehensive data, we can gain a better understanding of those conditions which precipitate and perpetuate hate violence, and, thus, develop more effective intervention strategies.

In conclusion, the American Psychological Association strongly supports legislation which would require the collection of comprehensive, nationwide statistics on hate crimes. We commend Chairman Simon and the members of the Subcommittee for their attention and commitment to addressing this very serious national problem. The American Psychological Association appreciates this opportunity to express our views, and we look forward to continued work with the Subcommittee on this legislation.

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ASIAN AMERICAN BAR ASSOCIATION OF THE GREATER BAY AREA

P.O. Box 3370
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June 22, 1988

Senator Paul Simon
United States Senate
Committee on the Judiciary
Washington, D.C. 20510-6275

ATTN: John Trasvina, Esq.

Re: Senate Bill 702

Dear Senator:

On behalf of the Asian American Bar Association of the Greater Bay Area and the California Attorney General's Asian/Pacific Advisory Committee, I would like to express our full and committed support to Senate Bill 702, known as the "Hate Crimes Statistics Act."

We believe that in California, as well as throughout the nation, there has been an increase in crimes committed against Asians and other minorities which are motivated by racial, ethnic, or religious prejudice. However, the crimes have gone, for the most part, unnoticed because of a lack of adequate reporting and fear of further criminal violence.

This issue has produced serious concerns by Californians and has prompted California Attorney General John Van de Kamp to establish a Committee on Racial, Ethnic, Religious and Minority Violence and an Asian/Pacific Advisory Committee to evaluate the problem and to propose California legislation similar to Senate Bill 702. To assist your committee in adequately briefing the legislature on the problem as it exists in California, I will forward our report and data to you with other relevant material shortly.

If I or one of the organizations to which I am a member can assist you, please do not hesitate to call upon us.

Very truly yours,

Karen G. Kwong

KGK:nw

SENATOR ALAN CRANSTON

STATEMENT IN SUPPORT OF S. 2000

JUNE 21, 1988

BEFORE THE SUBCOMMITTEE ON CONSTITUTION

COMMITTEE ON THE JUDICIARY

Mr. Chairman, I am delighted that the Committee is today considering legislation to provide for the acquisition and publication of data about "hate crimes," those crimes that are motivated by prejudice based on race, religion, affectional or sexual orientation, or ethnicity. Data collection efforts on the part of private organizations and local law enforcement agencies indicate that the problem of hate crimes in this country is indeed serious and, therefore, a comprehensive national data collection effort is clearly warranted.

I am aware that the Committee is considering three different versions of legislation that will mandate a federal effort to collect hate crime data, and I would like to focus my remarks on the need to enact legislation that will not only require that data be collected on hate crimes against racial, ethnic, and religious groups, but also against gays and lesbians. The bill I and Senator Kerry introduced, S. 2000, will accomplish this, and I firmly believe that the purposes of the data collection effort we would require the Attorney General to undertake will best be served if data on incidents of crimes based on <u>all</u> forms of prejudice are compiled.

The recently-published summary report on Bias Crime and the Criminal Justice Response prepared for the National Criminal Justice Association indicates that the problem of hate crimes is widespread, and may be increasing and turning more violent. The fact that gays and lesbians are often the victims of hate crimes was acknowledged in the report published by the National Council of Churches entitled "They Don't All Wear Sheets: a Chronology of Racist and Far Right Violence -- 1980-1986." That report indicates that members of the Ku Klux Klan "have increasingly targeted gay and lesbian individuals for physical attack and intimidation. In addition, a largely spontaneous wave of homophobic violence appears to be sweeping the Nation."

The data which has been gathered by the National Gay and Lesbian Task Force further documents the seriousness of the problem of violence against gay and lesbian individuals. In 1985, the task force received 2,042 reports of hate crimes against gays, and in 1986 the number of reported hate crimes rose to 4,946. In 1987, the data collected by the task force indicate that the number of hate crimes again increased substantially with a total of 7,008 incidents reported, representing a 42% increase from 1986. The task force's most recent report explained:

> Among those groups that documented greater violence last year were San Francisco's Community United Against Violence (CUAV), a gay victim assistance agency, which saw 11% more anti-gay violence victims in 1987 than in 1986. The New York City Gay and Lesbian Anti-violence Project served 14% more clients in 1987, and the Philadelphia Lesbian and Gay Task Force received a 39% increase in violence reports. In San Francisco at least, a greater number of anti-gay attacks resulted in serious injury to victims. According to CUAV, the number of clients requiring medical attention rose by 23% last year.

I am especially concerned, Mr. Chairman, about the reported increase in the severity of assaults against gay and lesbian individuals. For example, the Community United Against Violence organization in San Francisco reported that during the first quarter of 1988 there were 27 anti-gay attacks which resulted in the victim needing medical attention, and 8 of those cases resulted in hospitalization of the victim.

Furthermore, there is evidence that the public's fear and lack of information regarding the AIDS epidemic are causing an increase in attacks against gays. The recently released report of the Presidential Commission on the Human Immunodeficiency Virus Epidemic noted:

> Increasing violence against those perceived to carry HIV, so-called "hate crimes," are a serious problem. The Commission has heard reports in which gay men in particular have been victims of random violent acts that are indicative of a society that is not reacting rationally to the epidemic. This type of violence is unacceptable and should be condemned by all Americans.

The Commission recommended that all violent acts against individuals with HIV infection or those perceived to carry HIV should be prosecuted to the fullest extent of the law.

Mr. Chairman, I understand that a representative of the National Gay and Lesbian Task Force will be testifying before the subcommittee, and I would like to conclude by reiterating that the problem of anti-gay violence is indeed serious. For the Attorney General's data collection effort to be effective, that effort must include data on hate crimes against gay and lesbian individuals.

I would also like to note that the House of Representatives recently passed companion legislation to S. 2000, H.R. 3193, by a vote of 383 to 29. I was glad to see that members of the House of Representatives share my view that we must enact legislation that will mandate a federal data collection effort on all forms of hate crimes -- whether the crime is directed at individuals because of their race, ethnicity, religion, or their sexual orientation.

Finally, while I have focused my remarks on the issue of anti-gay violence, I would also like to state that I share the concern of others regarding the incidence of hate crimes motivated by prejudice against racial, religious, or ethnic minorities. The fact that there is an increase in the reported number of these forms of hate crimes warrants a comprehensive national data collection effort. We cannot continue to tolerate prejudice in any form.

Today's hearings represent an important first step in addressing the very serious problem of the incidence of hate crimes in the United States. I urge my colleagues to support S. 2000.

STATEMENT

of

DAVID HARRIS

on behalf of

THE AMERICAN JEWISH COMMITTEE

on

S.702, S.797 & S.2000: THE "HATE CRIME" STATISTICS ACT

The American Jewish Committee, a national organization of approximately 50,000 members founded in 1906, is dedicated to the defense of the civil rights and religious liberties of all Americans. We wish to take this opportunity to express our support for, and make some comments with respect to, the "Hate Crime" Statistics Act (the "Statistics Act") which already has passed the U.S. House of Representatives by a unanimous voice vote and which now is before the U.S. Senate.

We believe that the provisions of the Act, which mandate the collection of statistics on crimes that manifest prejudice based on race, religion, sexual orientation, or ethnicity, will constitute a valuable tool in the battle against "hate crime."

The systematic gathering of such information will serve several functions. The availability of these data will enable law officials to assess the extent of the problem in their own communities and from a nation-wide perspective. Thus, authorities will have a statistical basis by which to determine whether there is a trend in these kinds of crimes, either locally or on a broader scale. Moreover, the information gathered will provide a means for authorities to learn of, and assess, strategies utilized by other law enforcement agencies, and help guide both public and private institutions in the development of additional needed educational, preventive and enforcement activities. Perhaps as important, the gathering of this information will, in and of itself, carry to offenders, to victims and to society at large an important message -- that the nation is committed to battling the violent manifestations of bigotry, anti-semitism and racism.

It has been estimated that there are hundreds of brutal acts each year directed against individuals and institutions based upon race, religion, sexual orientation or ethnicity. These acts, which may include desecration of places of worship or cemeteries, arson or even murder, constitute an ominous threat to the pluralistic and democratic values on which our country is built. It must be clear that, not only must these acts be condemned, but also that society will take effective steps toward their eradication.

The 100th Congress already has moved strongly in this direction, through its passage of the Hate Crimes Act, P.L.100-346, which imposes criminal penalties for acts of violence intended to interfere with the constitutional right of the exercise of religion. Passage of the Statistics Act will be a logical and important extension of this commitment to combatting

bias related violence.

The persons who gather the information which ultimately finds its way into crime reports must be provided with objective standards which will guide them in determining which attacks are truly directed, in the language of the bill, to prejudice based on race, religion, sexual orientation or ethnicity. We believe that such objective standards can be developed, just as, in the enforcement of civil rights laws, those person who commit violent crimes motivated by racial hatred are distinguished from those who commit such crimes for other reasons.

Thus, information gatherers must be trained to be alert to such objective manifestation of hatred as: (1) utilization by offenders of speech and written symbols associated with expressions of hatred (e.g., swastikas or the utilization of racial and religious epithets); (2) acts of violence directed toward particular types of institutions which appear to be part of a recurrent pattern, rather than isolated instances of perhaps random vandalism; or (3) criminal acts against religious institutions which appear directed against religious symbols qua religious symbols.

It has been noted that a substantial proportion of acts and vandalism against religious institutions are committed by juveniles. This fact does not mitigate against the ends served by the proposed legislation. However, the data contemplated by the Act should reflect the extent to which these acts are committed by juveniles, as opposed to adults, since this will bear significantly on our understanding of the nature and extent of the problem and the work that will have to be done to deal with it.

With these practical considerations in mind as to the refinements that will be required once the proposed legislation is enacted, we respectfully urge the Congress to enact the "Hate Crime" Statistics Act.

Statement of Senator John Kerry
Senate Judiciary Committee
Hearing on Hate Crimes Legislation
June 21, 1988

Mr. Chairman, thank you very much for the opportunity to submit a statement for this hearing on the Hate Crime Statistics Act. I commend you for holding this hearing on this important issue and for your leadership in the area of civil rights.

The recent vote in the House of Representatives in favor of H.R. 3193, the Hate Crime Statistics Act, is an important step forward in combatting violent crimes based upon hate. It will direct the Justice Department to compile and publish annual data on crimes motivated by race, religion, homosexuality or heterosexuality, and ethnicity.

Senator Alan Cranston and I have introduced companion legislation in the Senate, S. 2000. I hope that this Committee will report out this or similar legislation in the near future. I am pleased that the Congress is taking steps to address the serious problem of hate crimes in this country.

I recently introduced S. 2109, the Civil Rights Protection Act of 1988. This legislation would protect the civil rights of Americans from discrimination on the basis of affectional or sexual orientation. I was pleased to be joined by Senator Alan Cranston as an original co-sponsor of this legislation.

This legislation follows up on S. 2000 and H.R. 3193 by providing criminal penalties under the U.S. Code for violations of the civil rights of gay Americans. It adds sexual orientation to the list of protected categories under our civil rights laws, and extends our commitment to the protection of the civil rights of all Americans. A year ago, Senator Cranston and I introduced S. 464, the Civil Rights Amendments Act of 1987, to protect the civil rights of gay Americans. The legislation we have introduced this year continues and extends that effort.

Hearings which have been held in the House Judiciary Committee indicate that there is a serious problem in America with hate crimes of all types, including violence against blacks, Hispanics, Asian-Americans, Jews, Arab-Americans, and gays. A recent report by the National Gay and Lesbian Task Force confirmed the fact that hate crimes directed against gays and lesbians are increasing. Legislation is needed to address the serious problem of anti-gay violence.

This year, in 1988, it is even more important that we address the problem of violence against gay Americans. The epidemic of AIDS has spread throughout our society, and it continues unabated. Unfortunately, along with AIDS has come an increase in prejudice and violence against gay Americans in certain parts of our society. This problem can only be addressed by confronting it directly.

Violence against gays and lesbians has now reached epidemic proportions in America. A recent study commissioned by the National Institute of Justice concluded that "homosexuals are probably the most frequent victims" of hate-motivated violence, and that gay Americans are frequently targeted for assault, verbal intimidation and vandalism. The report also suggested that excluding homosexuals from protection under hate crime legislation "either condones bias crimes against gays and lesbians or suggests it does not exist." The legislation I have sponsored addresses that problem on the federal level by providing criminal penalties for hate crimes against gays and lesbians.

As we look around us, we see too many examples of hate crimes and crimes of violence and prejudice in our society. From Howard Beach to Forsyth County, from New York and Boston to Los Angeles and San Francisco, such crimes are an ugly fact of life. As Americans, we must be sensitive to this problem and strive to find a solution. For, as Martin Luther King once wrote, "Injustice anywhere is a threat to justice everywhere."

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NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE
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STATEMENT

OF

ALTHEA T. L. SIMMONS

DIRECTOR, WASHINGTON BUREAU

NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE

BEFORE THE

SUBCOMMITTEE ON THE CONSTITUTION

SENATE COMMITTEE ON THE JUDICIARY

ON

THE HATE CRIME STATISTICS ACT

(S-702, S-797 and S-2000)

UNITED STATES SENATE

June 21, 1988

10:30 a.m.

638 Dirksen Senate Office Building

Mr. Chairman, and Members of the Subcommittee, I am Althea T. L. Simmons, Director and Chief Lobbyist, Washington Bureau of the National Association for the Advancement of Colored People. The NAACP, now in its 79th year is the nation's oldest and largest civil rights association. We appreciate this opportunity to submit testimony on behalf of the NAACP's 2300 branches and youth units in the 50 states and the District of Columbia.

Mr. Chairman, as you are well aware, the NAACP was founded as a direct result of racial violence. Between 1889 and 1919, approximately 3,200 innocent black men, women and children were murdered by lynchings, burnings or death by mob violence. Racially motivated mob violence existed North and South of the Mason-Dixon Line. In 1908, prominent people of conscience, black & white, gathered to discuss and later form what was to become the NAACP, in response to the atrocities committed by white mob violence against blacks in Springfield, Illinois.

The Association's first major campaign was the publication, at great risk to the NAACP's investigator's lives, of Thirty Years of Lynching in the United States, 1889-1918. This study was widely publicized and these statistics contributed to the legislation introduced in the House of Representatives (but ironically was vetoed by this body--the Senate) and the public exposure that brought an end to that era's excesses of racial mob violence.

Mr. Chairman and Members of the Subcommittee, I have retold some of the NAACP's history in order to emphasize the need for accurate, timely statistical reporting by the government in regards to racially-motivated hate crimes. Unfortunately, in the 1980's our democratic country is still plagued by racially-motivated violent hate crimes. These crimes are not confined to one area of the country. NAACP Branches in Oklahoma, Indiana, Texas, New Jersey, Pennsylvania, California, Georgia, Alabama, Washington, D.C., Louisiana and Florida, just to name a few, have all reported acts of racially-motivated crimes and harassment.

Hate Crimes against blacks have been publicized and reported as far South as Alabama, where, in recent years, a black youth was found hanging from a tree, to Brooklyn, New York where last September three black teenagers and two hispanic youths were attacked and chased by ten white youths. Recently, the New York Times reported that a black family who moved in a predominately white neighborhood in Cranston, R.I. woke up on June 7 and found their car tires slashed. The cars, house and sidewalk had also been spray-painted. The police Chief of Cranston termed this bias attack, ". . . An isolated incident of vandelism, not racism. I call racism people with pickets and petitions." The Director of the State Commission against discrimination, Gene L. Booth, disagreed, "It was absolutely a racist attack, one of three in the past year, which is far too many."

The Cranston, R.I. incident is a perfect example of how racially-motivated bias crimes are reported incorrectly and misclassified. Proper statistical reporting by the Federal Government is required for the local authorities to know the numerical frequency and the widespread national nature of racially-motivated hate crimes.

Last year, many racially-motivated hate crimes were reported out of New York City because that City's police department instituted a bias incident investigating unit seven years ago. This unit reported 113 bias incidents against blacks as of July 31, 1987; 41 assaults, 32 instances of aggravated harassment, 10 oral slurs, 1 cross burning, 3 written slurs, 3 incidents of property damage, 2 burglaries, 3 robberies and 2 arsons. Sixteen were categorized as 'Other', which includes menacing. This statistical reporting is credited for making the police department more sensitive to what constitutes a bias incident. Other jurisdictions recording hate crimes are the police departments of Boston, Baltimore and San Francisco. In addition, the States of Connecticut, Maryland, California, New Jersey and Pennsylvania require the collection of hate crime statistics. While the aforementioned jurisdictions should be recognized for

their efforts in collecting and adequately classifying hate crime statistics, these spotty attempts to address what is really a national problem are not enough--the Federal government must become involved in this effort as well. S702, S.797 and S.2000 (which is the companion Bill to HR 3193) attempts to fill that gap.

These bills would provide for the collection and (in the case of S.2000 and S.797) publication of data about hate crimes motivated by racial, religious or ethnic hatred (and in regards to S.2000, affectional or sexual orientation). The legislation is sorely needed in order for public authorities and law enforcement agencies to be able to address and serve the most severely troubled areas. State, local and additional Federal legislation, in turn, will be promulgated into more effective criminal and civil laws. S.2000 specifies that "(D) acquired under this Act shall be used only for research or statistical purposes and may not contain any information that may reveal the identity of an individaul victim of a crime." The association would encourage the inclusion of this provision in the other bills, as well. In this way, law enforcement officials, agencies and interested organizations could not utilize these statistics at the expense of the already traumatized victims. The association also supports the inclusion of categories of threat, trespass and vandalism as hate crime categories in all the respective bills. These crimes are not presently included in the FBI's Uniform Crime Reports. And in order to ensure the accuracy of National Hate Crimes statistics that impact disproportionately on blacks and other minorities, the NAACP is of the opinion that these categories need to be kept in the body of the Bills.

Law enforcement officials and ultimately, the Federal government can be tipped off as to the validity of a racially biased crime against and by blacks in many ways. For example, the utterance or written evidence of racial slurs about or against blacks is an obvious example. The known activities of white supremacist hate groups who expound their racist agenda against blacks and other racial

minorities merits national documentation. The KKK is the best known and the oldest of these groups that now include the Aryan Nation, the Covenant, The Sword, The Arm of the Lord and The Order.

Racial threats and attacks that directly target isolated blacks or combinations/patterns thereof against blacks who move into predominantly white areas or against black students on predominantly white college campuses are also evidence of purely racially-motivated hate crimes. During the past 18 month period students at the University of Michigan, Dartmouth and the University of Massachusetts protested against the growth in patterns of racially-motivated violence. The actions ofthese students and all the good work of law enforcement departments who must try to solve these crimes will all be in vain if their results cannot be coordinated in sound local and national policy.

The NAACP believes that this society will have to keep paying for actions of the few bigoted, racially intolerant individuals because there is no national mechanism to collect data on this insidious problem. The NAACP is of the opinion that the Attorney General should follow the Congressional Budget Office's advice and utilize the already existing community relations service to monitor and report on hate crimes, in order to keep costs down.

If our nation is to move productively into the next century, all internal divisions such as racial intolerance, that contribute to unnecessary strife and a waste of resources, must be eradicated. A patchwork of non-profit organizations and enlightened state and local governments cannot hope to solve a problem that is as close to us as in Hamden, Maryland where the only black family was just hounded out of that town. Local, state and national policy cannot be formulated to attack and solve crimes against blacks and other racial minorities without proper, accurate, quantitive data. The Bills before this Subcommittee will help in this effort.

In sum, the NAACP appreciates this opportunity to submit testimony on an issue that is so vital to black Americans. We urge this Subcommittee to report these bills out as soon as possible and we also urge the Congress to ensure their speedy passage.

Thank you, Mr. Chairman and Members of the Subcommittee.

The National Democratic Council of Asian & Pacific Americans

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June 20, 1988

Senator Paul Simon
Chairman, Constitution Subcommittee
United States Senate
Washington D.C. 20510

Dear Senator Simon:

On behalf of the National Democratic Council of Asian and Pacific Americans, I am writing in support of S. 702, the Hate Crimes Statistics Act. The Council is very pleased that you will hold a hearing on this legislation on June 21.

Your bill provides an important first step in combatting a serious criminal justice problem that is continuing to grow around the nation. Our members in California, Texas, Massachusetts and New York are aware of an increase in violent crimes against Asian and Pacific Americans, most frequently new arrivals from Southeast Asia and Korean-Americans, often elderly. The victims are often non-English speaking and reluctant to contact the appropriate police officials. Therefore, a concerted effort is required and federal leadership from the Attorney General is warranted for the breadth and extent of racially and ethnically-motivated violence to be identified and resources allocated to combat hate crimes.

Violence against Americans because of their Asian ancestry gained nationwide publicity from the murder of Vincent Chin in Detroit. But that tragedy was not an isolated case. Whether it is based upon economic tensions or anti-immigrant sentiment, anti-Asian violence does exist and needs to be remedied swiftly. Your legislation will assist the law enforcement community to address this critical need.

Sincerely,

Susan C. Lee, Esq.
Board of Directors

TESTIMONY OF THE NATIONAL ORGANIZATION FOR WOMEN

presented to

The Subcommittee on the Constitution of The

Senate Committee on the Judiciary

United States Senate

July 15, 1988

on

S. 2000, Hate Crimes Statistics Act

Molly Yard, President NOW

The National Organization for Women appreciates the opportunity to submit testimony in regard to S. 2000, The Hate Crimes Statistics Act, in support of amending this very important bill to include women in the list of affected groups that are regularly, and pervasively, the victims of hate crimes.

NOW is the nation's largest organization dedicated to the elimination of sex discrimination throughout American society with chapters in some 750 localities in all 50 states. As the nation's largest feminist organization, NOW has a primary interest in advancing the cause of women's rights and, in the immediate instance, in calling for the recognition that women as a group are more often the victims of hate crimes that manifest prejudice than any other group of citizens in this country.

While NOW fully supports S. 2000, we believe it is imperative that this nation through the Congress take the crucial step of recognizing the scope and level of hate crimes directed at women and to begin dealing with the reality of this common and tragic problem.

When one realizes that rape and wife abuse are the most commonly reported violent crimes in America, it becomes clear that the vast majority of violent crime victims in this country are women.1

There is wide agreement among feminists that these crimes against women are motivated by hatred. And while national statistics are kept on the incidence of rape and domestic violence, categorization of such crimes as hate crimes is necessary in order for law enforcement personnel, legislators, educators, and the public at large to truly understand not just the full scope and complexity of the problem but the motivation behind these crimes.

Additionally, when crimes such as homicide, assault, robbery, burglary, theft, arson, vandalism, trespass and threats are committed against women, they should be evaluated in terms of "hate" motivation for purposes of categorization.

H.R. 3193/S. 2000 should therefore be amended to include women so that illegal acts that "manifest prejudice" based on gender, including terrorist acts against abortion clinics or providers, are categorized appropriately, as well as those that reveal prejudice "based on race, religion, sexual orientation, or ethnicity." Defining this statistical information in this way would send a clear message that the federal government takes the commission of misogynistic crimes seriously.

Furthermore, such categorizing of misogyny as a hate crime is not unprecedented. In the past year two states--California

and Minnesota--have taken this step and have passed Hate Crime Acts which, by including sex in their list of hate crime categories, recognize the risk posed to all women by hate-motivated crime.

Misogynistic violence, like other forms of hate crime, is intended to violate, degrade and intimidate all members of the affected group.

David Adams, founder of Emerge, a Boston men's counseling program on domestic violence established in 1977, describes it this way:

> ...sexism, like racism, has three different but interlocking dimensions: violence, discrimination, and prejudice. Every form of oppression needs a supportive ideology. Once a class of people is devalued, it is easier to justify abusing and discriminating against them.2

All three "dimensions" are found in crimes which women are the predominant victims. In addition, however, there are just plain facts that document the scope and degree of hate crimes against women. For instance, the U.S. has the highest incidence of rape of any modern society. According to the Law Enforcement

Assistance Association and Bureau of Census Crime Victimization Studies, "it has been determined that excluding sexual abuse in marriage and assuming equal risk to all women, 20 to 30 percent of girls now 12 years old will suffer a violent sexual assault during the remainder of their lives."3 Other sources estimate the incidence of rape to be even higher. As Congressman Gekas (R-PA) states, "It has been proved beyond a shadow of a doubt that women who are the subjects and victims of rape, are victims of a hate crime...."4

A number of experts have noted the similarity between the effects of hate-motivated ethnoviolence on its victims and of rape on its victims. As Joan C. Weiss, Executive Director of the National Institute Against Prejudice and Violence, testified before this subcommittee:

> The impact of ethnoviolence is traumatic and long-lasting. Victims experience fear and isolation, never knowing what future act await them. Their sense of personal violation is similar to that of the rape victim. They lose sleep. They fear for their lives and those of their children. Some change jobs. Some victims move away from communities, looking for a safe place. They cannot live in peace.5

There is no doubt but that rape injures not only its direct victims, but also terrorizes all females in a community in the same way that a single incidence of anti-Semitic or racist violence can terrorize all the Jews or blacks in a community.

Dr. JoAnn Evans-Gardner, founder of the Association for Women in Psychology, describes rape as "an act of political oppression," explaining that:

> Rapists perform for sexist males the same function that the Ku Klux Klan performs for racist whites--they keep women in their "place" through fear. The threat of rape is used to keep women out of jobs. It keeps women passive and modest for fear they will be thought provocative.6

Dr. Harry Kozol, director of Psychiatry at the Bridgwater, Massachusetts Center, draws similar conclusion to those of Dr. Evans-Gardner. Almost all rapists "want to keep women in their place," and they view women as somehow less human than men. It is their contempt for women that leads them to commit sexual assault" he has written. Dr. Kozol goes on to explain that "rape is basically an expression of inner rage and violence, not the outcome of thwarted sexual desire.... Some rapes appear to be

part of a total pattern of hostility toward women."7

David N. Lipton and his colleagues who conducted a study of convicted rapists, "Heterosocial Perception in Rapists," found that:

> (a)... distinguishing characteristic of rapists [is] ... their deviant, callous attitudes toward women; these attitudes reflect confusion about the nature of female sexuality, disrespect for women's rights and feelings, and insensitivity to the suffering of rape victims...8

Given the pervasiveness of this attitude, it is easy to see how rape is "frequently a means of revenge and punishment,"9 and in the eyes of the rapist, one woman could stand in for any other. In their study of 114 convicted, incarcerated rapists, Professors Diana Scally and Joseph Marolla of Virginia Commonwealth University, note that:

> Implicit in revenge-rapes was the notion that women were collectively liable for the rapists' problems. In some cases, victims were thought to represent all women, and rape was used to punish, humiliate, and 'put them in their place.' In both cases women were

> seen as a class, a category, not as individuals.10

Most studies have found that rapists feel a need to dominate women. Researchers Ronald L. Scott and Laurie A. Tetreault in their study, "Attitudes of Rapists and Other Violent Offenders Towards Women," found that traditional, sexist attitudes lead many rapists to believe that "...men have the right to discipline and punish women.... Rape was used 'to put women in their place' and as a method of proving their 'manhood' by displaying dominance over a female."11

Another important aspect of the psychology of rapists is that, by dehumanizing victims, they view, as Scully and Marolla point out, women as "commodities." Therefore, "in raping another man's woman, a man may aggrandize his own manhood and concurrently reduce that of another man."12 The same psychology is at work when a man who originally intended to rob another person's home, also finds a woman alone there and rapes her is by treating her as "just another part of the crime--an added bonus,"13--reducing her to a thing. She becomes another object to be taken. The pleasure they get from this "...reveals the extreme to which they objectified women. Women ... [are] seen as sexual commodities to be used or conquered rather than as human beings with rights and feelings."14

This objectification of women is not limited to "stranger" rapists. According to Detective Ellen King of the New York City Police Department Sex Crimes Unit, many "date" rapists believe that because they know their victims, they have a right to have sex with them; and they don't see themselves as rapists.15 For "date" rapists, sex is an "implied contract" of the date, and it is not necessary to discuss the possibility of sex with the woman.

Since rape is a crime motivated by misogyny, it is not surprising that researchers Larry Baron and Murray A. Straus have found that in any given state or locality:

> ...the lower the status of women relative to men, the higher the rape rate.... This finding suggests that gender inequality contributes to a social climate that is conducive to violence against women.... Thus, in a male-dominated society, rape both reflects the low valuation of women and contributes to their subordinate position in the sexual stratification system.16

Misogyny leads not only to rape, but also to wife beating (the term will be used here to refer to wife, live-in girlfriend, common law wife). Ninety-five percent of the victims of spouse

abuse in America are women 17 and, until a century ago, it was legal for a man to physically punish his spouse. Wife abuse affects women of all income and social classes, ethnic groups, races, and educational backgrounds. The battering includes threats, physical assault and, not infrequently, actual murder.

Family violence is the most prevalent form of violence in our nation. "Estimates range from 28 percent of all American couples engaging in violence to as many as 50 percent of all women being battering victims at some point in their lives,"18 according to the National Coalition Against Domestic Violence.

Battery, like rape, affects all women regardless of whether they have been victims of rapes or assaults. As David Adams points out:

> Because some men rape, all women must limit their mobility, watch what they wear, and generally restrict their actions vis-a-vis men. Likewise, because some men batter, all women must be wary of male anger and fearful of confronting male authority.19

Most domestic violence tends to escalate until the man has either killed his wife, been arrested, or she has left him, but "...when one victim is gone, the abuser moves on to another

victim."20 A women's behavior has little bearing on whether her husband or boyfriend becomes violent. As Ann Ganley, a psychologist specializing in family violence explains, "Battering is a behavior pattern that the offenders bring into their adult intimate relationships regardless of the quality of those relationships at the outset."21

Reporter Pamela Ward has observed that, "Men who abuse their wives usually have low self-esteem, poor control of their impulses, a high level of dependency on their wives, and show a lot of possessiveness and jealousy."22 And psychologist Elaine Hilberman found that this obsessive jealously led batterers, "in 57 of the 60 marriages," that she studied, to make:

> ... active and successful efforts to keep their wives ignorant and isolated. If the woman left the house for any reason, they were met with accusation of infidelity that culminated in assault.... Other channels of communication were also closed off. Friendships with women were discouraged... Many husbands refuse to let their wives work, and others tried to insure that both partners worked at the same place so they could monitor the women's activities and friends. Thus for these women isolation was complete

and potential support unavailable.23

By isolating a woman and limiting her work opportunities and thus her financial independence, an abuser is able to gain almost complete control over her. According to Dr. Ganley, when an abuser experiences feelings of inadequacy:

> ... attempts to regain a sense of well being are usually moves to dominate others through aggression and violence. They do not identify that the source and often times the solution to their feeling out of control is internal rather than external. They batter in order to feel more powerful. They dominate others in order to quell their own internal feelings of being powerless.24

And David Adams adds, "...Violence is a controlling act. When a man is violent towards his wife, he quite often gets what he wants, whether that be more space, his dinner, or the last word in an argument."25 Batterers, like rapists, view women as lesser beings than men. "... Women and girls are perceived by their assailants as legitimate targets for male aggression," Dr. Hilberman writes, and "the basic fact of the victim's femaleness is used by the offender to justify the assault."26

At times the target of the assault goes beyond an individual woman. According to Sarah M. Lenett, the assistant director of Safe Space, a Dade County, Florida, shelter and counseling facility for battered women and their children, abusers "... carry their rage around with them, and have threatened the shelter with firebombs and promises to shoot anyone who walks out the door."27 Such threats demonstrate misogyny in its most extreme form.

Too often excuses are made for wife abusers because approximately sixty percent of them grew up in homes where domestic violence was frequent. But excuses for hate crimes against women are no more acceptable than excuses for hate crimes based on race, religion, etc. We must also remember that 40 percent of abusers didn't grow up in violent homes and that not all men who grew up in violent homes end up being abusers.

In truth, both batterers and rapists feel most comfortable with a traditional, sexist status quo which keeps almost all power in male hands.

A desire to keep women in the home and to control all her decisions is not limited to rapists and batterers. It also can be seen in the action of those who commit violence and harassment against women as a group, such as the violence directed at women's health centers by groups like the so-called "Operation

Rescue" which is attempting to close down clinics that offer abortion services in targeted cities across the country.

According to the National Abortion Federation (NAF), between 1977 and 1984 the following numbers of violent incidents took place at these clinics: 104 arsons, bombings and attempted bombings; 213 bomb threats; 216 clinic invasions, 41 assaults/batteries inflicted on clinic physicians and workers', 191 acts vandalism, 143 cases of hate mail and harassing phone calls', and 624 cases of picketing and harassment at clinic sites and at the homes of abortion providers, clinic staff and board members.28 In too many cases fatalities were only narrowly averted. "In no other segment of American health care are patients and workers subjected to the level of violence and intimidation encountered at reproductive health facilities,"29 according to NAF.

By valuing an unborn fetus above the life of a woman and endangering the lives of many people through their violent acts, anti-abortion terrorists clearly reveal the contempt with which they view women.

While statistics are collected on anti-abortion violence, on rape and on domestic violence, many other crime statistics fail to note that the victims were women "because they are women." Certainly there are numerous instances when women are the objects

of robberies and burglaries because they are women. Equally disturbing is the practice of not even reporting some crimes as the result of domestic violence. For instance, according to a 1986 National Institute of Justice Report:

> ... when domestic violence incidents have been reported by police, they have typically been relegated to a low-priority 'family disturbance' category along with many types of non-violent domestic disputes. At the same time, the most serious of domestic violence incidents were likely to be reported simply as homicides or felony assaults, without reporting the relationship between the parties or assigning the cases a 'domestic' classification. Given both of these reporting practices, the incidence and nature of crimes involving domestic violence have been largely unknown.30

In some areas of the country, these inadequate reporting practices have been addressed by including a box labelled "domestic violence" on the police report form or requiring police to fill out a separate form for domestic abuse cases. The Institute of Justice points to the need for such record-keeping:

> On a national level, both the Attorney General's Task Force on Family Violence and the U.S. Commission on Civil Rights have recommended that the FBI's Uniform Crime Reports be revised to collect and publish data indicating victim-offender relationships for violent crimes that occur within families.31

The F.B.I.'s Uniform Crime Reports similarly do not include information as to whether an assault or arson or other crime is the result of anti-abortion terrorism. This terrorist activity is tracked only by private groups such as NAF.

Unlike anti-abortion related offenses and domestic violence, rape crimes are reported separately in the annual Uniform Crime Reports. The F.B.I., however, must rely on different localities across the nation to gather this information and the various states have different legal definitions of rape.

For example, while in most states either a man or a woman can be the perpetrator or the victim of rape, "several states still limit the meaning of rape to sexual intercourse with a woman,"32 thereby neglecting to include forced oral sex or same sex assaults. States also differ in their definitions of statutory age (age of legal consent) in determining what

constitutes statutory rape or the rape of a person below a certain age. In addition, many states do not consider a man's forced sexual intercourse with his wife, however violent, as rape, and in twelve states "a man who rapes the woman he is living with but to whom he is not legally married cannot be charged with rape."33 These disparities in rape law clearly make both the reporting and interpreting of the Uniform Crime Reports very difficult.

Just as ethnic, religious, homophobic, and racist violence is motivated by hate, so also is rape, wife abuse, and anti-abortion terrorism and a host of other crimes directed at women. Until we accept this concept as a nation and act on the obvious, we cannot truly understand the scope and degree of misogyny in American society and begin to eradicate the problem and eliminate the tragic and shameful results. The Congress can take the all-important first step toward a solution by including women in H.R. 3193/S. 2000.

Notes

1 David A. Adams, "Stages of Anti-Sexist Awareness and Change for Men Who Batter," paper presented at the Ninety-Second Annual Convention of the American Psychological Association, Toronto, 24 August 1984, p. 1.

2 Ibid., p. 6.

3 Diana Scully and Joseph Marolla, "'Riding the Bull at Gilley's': Convicted Rapists Describe the Rewards of Rape," Social Problems, 32:3, February 1985, p. 252.

4 Congressional Record, 13 May 1988, H3374.

5 Joan C. Weiss, Testimony before the Subcommittee on the Constitution on S. 702, S. 797, and S. 2000, "Hate Crimes Statistics Act," 21 June 1988, p. 5

6 JoAnn Gardner quoted in Nancy Gager and Cathleen Schurr, Sexual Assault: Confronting Rape in America (New York: Grosset & Dunlap, 1976), p. 209.

7 Harry Kozol quoted in Ibid., p. 207.

8 David N. Lipton, et al., "Heterosocial Perception in Rapists," Journal of Consulting and Clinical Psychology, 55:1, 1987, p. 17.

9 Scully, p. 261.

10 Ibid.

11 Ronald L. Scott and Laurie A. Tetreault, "Attitudes of Rapists and Other Violent Offenders Towards Women," The Journal of Social Psychology, 127:4, 1987, p. 379 and Scully p. 256.

12 Scully, p. 256.

13 Ibid., p. 257.

14 Ibid., p. 261.

15 Ellen King quoted in Sherry Suib Cohen, "Acquaintance Rape," Young Miss, 1984, p. 45. Also in Scully, pp. 257-58.

16 Larry Baron and Murray A. Straus, "Four theories of Rape: A Macrosociological Analysis," Social Problems, 34:5, December 1987, p. 481.

17 National Coalition Against Domestic Violence, May 1988 Statistics, Washington, D.C.

18 Sarah M. Lenett, "Representing the Battered Spouse: Social and Legal Perspectives," The Florida Bar Journal, June 1985, p. 77.

19 Adams, p. 6.

20 Maggies Rosenbaum, prosecutor for Domestic Crime Unit of Dade State Attorney's Office (Florida) quoted in Pamela Ward, Miami News, 1 august 1987, p. 6A.

21 Anne L. Ganley, testimony for Task Force on Family Violence, Sacramento, Cal., 16 February 1984, p. 1.

22 Pamela Ward, "Abused Women Have Safe Place to Hide," Miami News, 4 August 1987.

23 Elaine Hilberman, "Overview: The 'Wife-Beater's Wife' Reconsidered," American Journal of Psychiatry, 137:11, November, 1980, p. 1339.

24 Ganley, pp. 3-4.

25 Adams, p. 5.

26 Hilberman, p. 1337.

27 Sarah Lenett in Ward, "Abused Women."

28 National Abortion Federation, The Threat to Health Care Workers and Patients: Antiabortion Violence and Harassment, Washington, D.C., 1987.

29 Ibid.

30 Gail A. Goolkasian, Confronting Domestic Violence: A Guide for Criminal Justice Agencies, U.S. Department of Justice, National Institute of Justice, Office of Communication and Research Utilization, Washington, D.C., Issues and Practice Series, May 1986, p. 5.

31 Ibid., pp. 7-8.

32 NOW Legal Defense ad Education Fund and Renee Cherow-O'Leary, State Guide to Women's Legal Rights, (New York, 1987), p. 79.

33 Ibid., p. 81.

34 Ibid.

Bibliography

Adams, David. "Stages of Anti-Sexist Awareness and Change for Men Who Batter." Paper presented at the Ninety-second Annual Convention of the american Psychological Association. Toronto. 24 August 1984.

Baron, Larry and Murray A. Straus. "Four Theories of Rape: A Macrosociolgical Analysis." Social Problems, 34:5, December 1987, 467-89.

Congressional Record, 13 May 1988, H3374.

Cohen, Sherry Suib. "Acquaintance Rape." Young Miss, 1984, pp. 44ff.

Gager, Nancy and Cathleen Schurr. Sexual Assault: Confronting Rape in America. New York: Grosset & Dunlap, 1976.

Ganley, Anne. L. Testimony for Task Force on Family Violence, Sacramento, Cal., 16 February 1984.

Goolkasian, Gail A. Confronting Domestic Violence: a Guide for Criminal Justice Agencies. U.S. Department of Justice, national Institute of Justice, Office of Communication and Research Utilization. Issues and Practices Series. Washington, D.C., May 1986.

Hilberman, Elaine. "Overview: The 'Wife-Beater's Wife' Reconsidered." American Journal of Psychiatry, 137:11, November 1980, 1336-47.

Jenkins, Megan J. and Faye E. Dambrot. "The Attribution of Date Rape: Observer's Attitudes and Sexual Experiences and the Dating Situation." Journal of applied Social Psychology, 17:10, 1987, 875-95.

Lenett, Sarah M. "Representing the Battered Spouse: Social and Legal Perspectives." The Florida Bar Journal, JUne 1985, pp. 77-79.

Lipton, David N., et al. "Heterosocial Perception in Rapists." Journal of Consulting and Clinical Psychology. 55:1, 1987, 17-21.

Mooney, Hannah. "When Law Is Not Enough." MS, September 1987,

Muehlenhard, Charlene L. and Melaney A. Linton. "Date Rape and Sexual Aggression in Dating Situations: Incidence and Risk Factors." Journal of Counseling Psychology, 43:2, 1987, 186-96.

National Abortion Federation. The Threat to Health Care Workers and Patients: Antiabortion Violence and Harassment. Pamphlet, Washington, D.C., 1987.

National Coalition Against Domestic Violence. May 1988 Statistics. Washington, D.C.

_____. Why Do Men Batter? Fact sheet, Washington, D.C.

"New Laws Recognizing Marital Rape As A Crime." New York Times. 29 December 1984.

Ptacek, James. "The Clinical Literature on Men Who Batter: A Review and Critique." Paper presented at the Second National Conference for Family Violence Researchers. 7-10 August 1984. University of New Hampshire. Durham, New Hampshire.

NOW Legal Defense and Education Fund and Renee Cherow-O'Leary. State Guide to Women's Legal Rights. New York: McGraw Hill, 1987.

Scott, Ronald L. and Laurie A. Tetreault. "Attitudes of Rapists and Other Violent Offenders Towards Women." The Journal of Social Psychology. 127:4, 1987, 375-80.

Scully, Diana and Joseph Marolla. "'Riding the Bull at Gilley's': Convicted Rapists Describe the Rewards of Rape." Social Problems. 32:3, February 1985, 251-63.

Statham, Dawn. Executive Director Idaho Council on Domestic Violence. Testimony presented to the Attorney General's Task Force on Family Violence. Summary by Linda Geraci. National coalition Against Domestic Violence. Washington, D.C.

Tong, Rosemarie. Women, Sex, and the Law. Totowa, New Jersey: Rowman & Allanheld, 1984.

Ward, Pamela. "Domestic Violence in Dade." Miami News. 1 August 1987. pp. 1A ff.

_____. "Abused Women Have a Place to Hide." 4 August 1987.

Weiss, Joan C. Testimony before the Subcommittee on the Constitution, Senate Judiciary Committee on S. 702, S. 797, S. 2000, "Hate Crime Statistics Act." 21 June 1988.

Yllo, Kersti and Murray A. Straus. "Patriarchy and Violence Against Women: The Impact of Structural and Normative Factors." Paper presented at the John's Hopkins

Symposium on "Feminism and the Critique of Capitalism."
Baltimore, Maryland, 25 April 1981.

ORGANIZATION OF CHINESE AMERICANS®, INC.
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STATEMENT OF THE ORGANIZATION OF CHINESE AMERICANS

COMMENTS BEFORE THE COMMITTEE ON THE JUDICIARY

21 JUNE 1988

The Organization of Chinese Americans (OCA) welcomes this opportunity to submit its comments before this Committee on S. 702, the "Hate Crime Statistics Act". OCA is a national nonprofit, nonpartisan organization celebrating its fifteenth anniversary this year as the most prominent Chinese American volunteer, educational, and civic organization in the nation. OCA has more than 7,000 members in 41 chapters across 25 states. Included in OCA's membership are federal, state, and local elected officials.

OCA fully supports S. 702 as a necessary step to identify and to stop crimes of racially, ethnically, or religiously-motivated hate and violence. Comprehensive and current statistics will aid in the process of defining the frequency, location and patterns of these crimes. Hate-related incidents endanger the community as a whole and must be strongly dealt with by law enforcement officials. Eventually, the passage of laws and the administration of training programs will help to further combat this growing societal problem.

Due in large part to domestic economic problems and the negative trade balance, many Asian Americans have experienced anti-Asian backlash. The growing trend toward nativism and restrictionism in America is less receptive to newly-arrived

refugees and immigrants from Asia. Resentment against Asian nations and their economic achievements is often transferred to Asians in America. The highly-publicized murder of Vincent Chin in 1982 is only one example of violent attacks directed towards Asian Americans. OCA believes that as Asian Americans achieve increased economic success, they are simultaneously admired and resented.

In many communities, anti-Asian feelings are expressed by vandalism, harassment, intimidation, and violence. Over the years, cities with large Asian American populations such as San Francisco and New York City have had many incidences involving homicide, robberies, and assaults directed towards Asian Americans. Other cities and municipalities around the country have had similar incidences, some involving the Ku Klux Klan who have used anti-Asian racial epithets, stronghand tactics and death threats. Often these crimes are under-reported by their victims, who distrust law enforcers and fear retribution.

The need for the Department of Justice to statistically address incidences of hate crime is immediately apparent. Frequent reports of hate crimes against Asian Americans have not subsided and will continue to exist until the scope of the problem is examined. S. 702 will provide the data needed to formulate and implement measures designed to fight and decrease racial, ethnic, and religious crimes. OCA strongly endorses the passage of this bill and looks forward to working with this Committee in supporting the Hate Crime Statistics Act.

Respectfully Submitted,

Melinda Yee
Executive Director

U.S. Department of Justice

Federal Bureau of Investigation

Washington, D.C. 20535

November 30, 1988

Honorable Paul Simon
Chairman
Subcommittee on the Constitution
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

This letter is in response to the June 21, 1988, testimony of former Senator James Abourezk before your Subcommittee. Senator Abourezk, in his remarks, made reference to FBI harassment of Arab-Americans.

The FBI does not investigate groups or individuals because of their ethnic derivation, political beliefs or religious affiliation. There must be some indication of criminal or terrorist activity or affiliation before we can conduct an investigation and we have the Attorney General's Guidelines which set the parameters for these investigations. It is part of our responsibility, for example, to either prove or disprove allegations of criminal or terrorist activity which may arise concerning specific individuals. One method by which we do this is to conduct interviews of persons knowledgeable of the activities of the individual under investigation. This could logically include relatives, neighbors, friends and associates of persons we may be investigating. This does not imply, however, that those whom we either interview or investigate are criminals or terrorists. The purpose of the investigation is to make, insofar as possible, such a determination. This may be misconstrued by those who do not fully understand what the FBI does. There are times in a specific investigation when individuals must be interviewed more than once, and this is sometimes misconstrued as harassment.

The specific situation which Senator Abourezk made reference to occurred in 1980. Senator Abourezk was advised in August, 1980, that the FBI was looking into the matter, following his

Honorable Paul Simon

letter to former FBI Director William H. Webster alleging FBI harassment. Senator Abourezk was also given a complete briefing on the matter by FBI officials at FBI Headquarters. He did not voice any further objections or criticisms at that time.

The specifics of the incident, which former Senator Abourezk referred to, are as follows. An FBI Agent in our Minneapolis Office wished to interview a Mrs. Noha Ishmail. Because she was not at home, the Agent left his business card in her mail box with a note to contact him. The Agent also told a neighbor to advise Mrs. Ishmail to contact him. An internal FBI investigation found no improprieties in the Agent's actions.

I cannot state more strongly that the FBI does not harass Arab-Americans. As part of our Counterterrorism mandate, we interview persons of all ethnic groups and from all parts of the world. Because one of our principal threats is from the Middle East, we may prioritize our investigations toward this area; however, we do not harass this or any other ethnic group. In fact, we are currently investigating instances of Arab-Americans being the targets of terrorist attacks - Mr. Alex Odeh, for example. These matters are among the top priority investigations within the FBI.

I am concerned about the allegations of FBI harassment. Although certain FBI activities may be misconstrued as harassment by groups or individuals, this is not an FBI policy. We do not investigate an individual or group because of race, creed, political persuasion, etc. We must meet certain and specific criteria that are set forth in the Attorney General's Guidelines before we can conduct an investigation.

Sincerely yours,

Floyd I. Clarke

Floyd I. Clarke
Assistant Director
Criminal Investigative Division